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0 077

Order File Identifier

Organizing (done)

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RESCAN

☐ Color Items:

☐ Greyscale Items:

☐ Poor Quality Originals:

☐ Other:

DIGITAL DATA

☐ Diskettes, No.

☐ Other, No/Type:

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☐ Maps:

☐ Other Items Scannable by a Large Scanner

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☐ Logs of various kinds:

☐ Other::

NOTES:

BY: Maria

Date: 9/19/12

/s/

MP

Project Proofing

BY: Maria

Date: 9/19/12

/s/

MP

Scanning Preparation

BY: Maria

Date: 9/19/12

/s/

MP

_____ x 30 = _____ + _____ = TOTAL PAGES 258
(Count does not include cover sheet)

Production Scanning

Stage 1 Page Count from Scanned File: 259 (Count does include cover sheet)

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/s/

MP

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BY: Maria

Date:

/s/

Scanning is complete at this point unless rescanning is required.

ReScanned

BY: Maria

Date:

/s/

Comments about this file:

Quality Checked

INDEX OTHER 077
Annular Disposal Regulations

- | | |
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| 1. May, 2009 | AOGCC File Opening |
| 2. July 2, 2009 | Dana Olson request to change hearing date |
| July 14, 2009 | AOGCC Response |
| 3. May 22, 2009 | Notice of Hearing, affidavit, mailings |
| September 3, 2009 | Notice of Hearing, affidavit, mailings |
| January 8, 2010 | Notice Of Hearing, affidavit, mailings |
| 4. October 15, 2009 | Transcript of Hearing |
| 5. June 25, 2009 | AOGA Comments |
| June 30, 2009 | ConocoPhillips Comments |
| September 21, 2009 | EPA Comments |
| October 9, 2009 | ConocoPhillips Comments |
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| February 8, 2010 | ConocoPhillips Comments |
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| February 16, 2010 | ConocoPhillips Comments (amended) |
| 6. October 28, 2009 | Ltr from AGO to EPA re: comments |
| November 20, 2009 | Response from EPA |
| February 10, 2010 | AOGCC invite to EPA to attend hearing |
| 7. February 16, 2010 | Transcript |
| 8. February 19, 2010 | Email from CPA to AOGCC |
| 9. March 19, 2010 | Email from EPA to AOGCC |
| 10. April 6, 2010 | Letter from AGO to EPA re: regulations |
| 11. May 14, 2010 | Response from EPA to AGO |
| 12. May 17, 2010 | Notice of Hearing |
| 13. June 18, 2010 | Comments from North Slope Borough |
| 14. June 21, 2010 | Comments from AOGA |
| 15. July 10, 2010 | Inactive Notice from Department of Law |

Confidential Attorney-Client Information located in Confidential Room

#15

MEMORANDUM

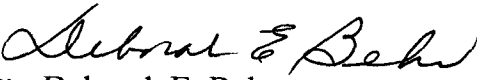
State of Alaska
Department of Law

To: Hon. Becky Hultberg, Commissioner
Dept. of Administration

Date: July 10, 2012

Tel. No.: 465-3600

File No.: JU2009200534


From: Deborah E. Behr
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Re: Inactive Regulations File re:
20 AAC 25.080: Annular
Disposal of Drilling Waste
Requirements

I have received notification that your department will not be actively pursuing the above-referenced regulations file at this time. Therefore, we are considering the file inactive as to work needed by our office.

DEB:pav

cc: Mike Barnhill, Regulations Contact
Dept. of Administration

✓ Jody Colombie, Special Assistant to the Commission
Alaska Oil and Gas Conservation Commission
Dept. of Administration

Scott Clark, AAC Coordinator
Lt. Governor's Office

Randy Ruaro, Deputy Chief of Staff
Office of the Governor

Martin Schultz, Chief Assistant Attorney General
Oil, Gas and Mining Section

Tab Ballantine Attorney General
Anchorage

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AOGCC

#14

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114
Email: moriarty@aoga.org
Kara Moriarty, Deputy Director

June 21, 2010

Commissioner Dan Seamount
Alaska Oil & Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, AK 99501

RE: AOGA Comments on Annular Disposal of
Drilling Waste [20 AAC 25.080]

Dear Commissioner Seamount:

The 14 members of the Alaska Oil & Gas Association (AOGA) account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in the state. AOGA appreciates the opportunity to provide additional comment on proposed changes to 20 AAC 25.080, regulations dealing with the annular disposal of drilling waste.

AOGA's past written comment and oral testimony regarding changes to annular disposal regulations focused on a previously proposed change requiring an operator to apply for aquifer exemptions in freshwater directly to the Environmental Protection Agency (EPA), which we believed was inconsistent with the 1991 EPA/AOGCC Memorandum of Agreement. Additionally, we felt this prior proposal was unwarranted as annular pumping is not an activity regulated by EPA under the Safe Drinking Water Act.

AOGA supports the current draft dated May 14, 2010, maintaining the same regulatory process for annular disposal of waste into freshwater that has existed for over fourteen years. We appreciate the communication between the AOGCC and EPA on this issue, clarifying that AOGCC's program for Class II wells remains effective.

Again, thank you for the opportunity to provide final comments on these proposed regulations and we look forward to working with the AOGCC on future issues.

Sincerely,

A handwritten signature in black ink that reads "Kara Moriarty". The signature is fluid and cursive, with the first name "Kara" and last name "Moriarty" clearly distinguishable.

KARA MORIARTY
Deputy Director

Cc: Commissioner John Norman
Commissioner Cathy Foerster

Colombie, Jody J (DOA)

From: Kara Moriarty [moriarty@aoga.org]
Sent: Monday, June 21, 2010 11:33 AM
To: Seamount, Dan T (DOA)
Cc: Foerster, Catherine P (DOA); Norman, John K (DOA); Colombie, Jody J (DOA); crockett@aoga.org; sheffield@aoga.org
Subject: AOGA Comments on Annular Disposal of Waste
Attachments: 2010-06-21 Annular Disposal Of Waste AOGCC Letter.pdf

Commissioner Seamount:

I have attached AOGA's comments regarding the latest version of the proposed regulations regarding annular disposal of waste. Please contact me if you have any questions.

Kara

Kara Moriarty
AOGA Deputy Director
121 W. Fireweed - Suite 207
Anchorage, AK 99503
(907) 272-1481
www.aoga.org

Alaska Oil & Gas Association Confidentiality Notice: This electronic transmission and any attached documents or other writings are intended only for the person or entity to which it is addressed and may contain information that is privileged, confidential or otherwise protected from disclosure. If you have received this communication in error, please immediately notify sender by return e-mail and destroy the communication. Any disclosure, copying, distribution or the taking of any action concerning the contents of this communication or any attachments by anyone other than the named recipient is strictly prohibited.

#13

North Slope Borough

PLANNING AND COMMUNITY SERVICES DEPARTMENT

P.O. Box 69
Barrow, AK 99723
☎ (907) 852-0320
Fax: (907) 852-5991
Email: Dan.Forster@north-slope.org



Daniel W. Forster, Director

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JUL 12 2010

**Alaska Oil & Gas Cons. Commission
Anchorage**

June 18, 2010

Daniel T. Seamount, Chair
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue, Suite 100
Anchorage, Alaska 99501

**Re: Alaska Oil and Gas Conservation Commission Proposed Regulation Changes
Title 20, Chapter 25, Alaska Administrative Code
Annular Disposal of Drilling Waste**

Dear Mr. Seamount:

The North Slope Borough (NSB) appreciates the opportunity to comment on the Alaska Oil and Gas Conservation Commission's (AOGCC) Proposed Regulation Changes to Title 20, Chapter 25 of the Alaska Administrative Code (AAC), Annular Disposal of Drilling Waste.

NSB supports state regulation of annular disposal of drilling waste to ensure waste is collected and disposed in a manner that is protective of human health and the environment. We offer several recommendations to meet this objective.

1. **Freshwater Protection:** The proposed regulations do not include any explicit protection for surface or subsurface freshwater resources. These protections are currently included in the existing regulations at 20 AAC 2580(c).

Recommendation: NSB recommends that AOGCC retain the existing requirements at 20 AAC 25.080(c) prohibiting annular injection of drilling waste from contaminating surface or subsurface freshwater resources.

2. **Definition of Drilling Waste:** The proposed definition of drilling waste at 20 AAC 25.080(a) inadvertently references a non-existent section of the regulations at 20 AAC 25.080(i); whereas, it appears AOGCC intended to refer to 20 AAC 25.080(h).

The proposed regulations at 20 AAC 25.080(h) refer generally to the Environmental Protection Agency's (EPA) definition of hazardous waste at 30 CFR 261; however, the definition is more specifically found at 40 CFR 261.3. Additionally, the State of Alaska defines hazardous waste at AS.46.03.900 (9).

Recommendation: NSB recommends that AOGCC change the proposed drilling waste definition reference in 20 AAC 25.080(a) to refer to the new proposed regulation at 20 AAC 25.080(h). NSB also recommends the proposed regulations at 20 AAC 25.080(h) reference the specific EPA definition of hazardous waste at 40 CFR 261.3 and the State of Alaska's definition of hazardous waste at AS.46.03.900 (9).

3. **Disposal Volumes:** The proposed regulation at 20 AAC 25.080(b) limits annular injection to a total of 35,000 barrels of waste in a single well. The amount of waste that can be safely disposed of via annular injection will be a function of a number of factors, including depth and dimensions of the annular space, maximum disposal injection rate, and disposal pressure. It is not clear how a statewide standard of 35,000 barrels was set or the technical basis for this volume.

Recommendation: NSB recommends that AOGCC provide the technical basis for the statewide standard of 35,000 barrels and examine whether that volume is appropriate for the wide range of onshore and offshore wells that AOGCC regulates at various wellbore configurations, depths and pressures. AOGCC's technical analysis should provide information to demonstrate that this volume will allow annular disposal of drilling waste in a manner that is protective of human health and the environment.

4. **Disposal Timeframe:** The proposed regulation at 20 AAC 25.080(b) limits actual disposal to a period of 90 days within a one-year approval period. NSB supports limiting the approval period to a one-year period to ensure that drilling wastes are collected and disposed of in a timely manner; however, it is not clear why the disposal interval is restricted to a 90-day period in that 365 day period window.

The proposed regulation does not limit the maximum injection rate and maximum disposal pressure; thus it does not ensure that freshwater resources are protected or that drill waste will not resurface.

Recommendation: NSB recommends that AOGCC include standards for maximum injection rate and maximum disposal pressure at 20 AAC 25.080(b) in the regulations—not just as permit stipulations. NSB also recommends that AOGCC provide a technical basis and explanation for the 90 day limitation.

5. **Drilling Waste Origin:** The proposed regulation at 20 AAC 25.080(b)(2) limits annular disposal of waste to drilling wastes generated by drilling operations on the same drill pad or platform as the disposal annulus. Thus, wastes from offshore operations that may occur in the Beaufort and Chukchi Seas from gravel islands, drillships, or other arctic drilling structures would be excluded.

NSB supports moving to zero-discharge of drilling waste from both onshore and offshore drilling operations. Annular injection plays a role in meeting that objective where safe and technically feasible. NSB would like to better understand AOGCC's rationale for limiting annular disposal of wastes to drilling operations on the same drill pad or platform as the disposal annulus, because we can envision some projects where it would be environmentally beneficial for multiple projects to share annular disposal capacity. For example, an offshore operator drilling several wells in separate locations may find it environmentally beneficial to transport drilling waste to one central location for annular injection. Or multiple operators may collaborate on a waste management program.

Recommendation: NSB recommends that 20 AAC 25.080(b)(2) be expanded to include offshore operations that may occur in the Beaufort and Chukchi Seas. NSB requests that AOGCC provide further information on its rationale for limiting annular disposal of wastes to drilling operations on the same drill pad or platform as the disposal annulus, and consider whether this proposed limitation will allow for environmentally beneficial projects to share annular disposal capacity.

6. **Waste Disposal Alternatives:** The proposed regulation at 20 AAC 25.080(d) requires the applicant to submit technical records to support an annular injection application. But applicants would not be required to submit a technical analysis summarizing the waste disposal alternatives considered, or an explanation as to why annular injection was selected as the best available technology, and evidence to support that annular injection at the proposed site will be protective of human health and the environment.

Recommendation: NSB recommends that 20 AAC 25.080(d) be expanded to require the applicant to submit a technical analysis supporting its application for annular injection as the best available technology and evidence to support that annular injection at the proposed site will be protective of human health and the environment.

Again, thank you for the opportunity to comment and participate in this regulatory revision process. NSB appreciates AOGCC's work on this important regulatory program. Please contact me at (907) 852-0320 if you would like to set up a meeting to discuss our comments further.

Sincerely,



Daniel W. Forster, Director

Cc: NSB Mayor Edward S. Itta
NSB Planning Commission
Andy Mack, Governmental Affairs Director, NSB Mayor's Office
Harold Curran, NSB CAO
Karla Kolash, Special Assistant to the NSB Mayor
Bessie O'Rourke, NSB Attorney
Barrett Ristroph, NSB Law
Gordon Brower, Deputy Director, NSB Planning Department
Dr. Ben Greene, Assistant to the Land Management Administrator, NSB
Susan Kittick-Atos, NSB Planning Department, LMR Manager
Taquilik Hepa, Director, NSB Department of Wildlife Management
Tom Lohman, NSB Department of Wildlife Management
Harvey Consulting, LLC
Glenn Gray & Associates

#12

STATE OF ALASKA

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AOGCC

333 W 7th Ave, Ste 100
Anchorage, AK 99501T
OAnchorage Daily News
PO Box 149001
Anchorage, AK 99514

AGENCY CONTACT

Jody Colombie

PHONE

(907) 793-1221

DATE OF A.O.

May 14, 2010

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Anchorage, AK 99501PAGE 1 OF
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02-902 (Rev. 3/94)

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NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE
ALASKA OIL AND GAS CONSERVATION COMMISSION

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080).

The AOGCC notices the changes to 20 AAC 25.080 as follows:

1. modify the information that must be submitted with an annular disposal application;
2. modify the limitations and conditions applicable to annular disposal;
3. add a provision for requesting variances and waivers; and
4. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments Alaska Oil and Gas Conservation Commission at 333 West 7th Avenue, Suite 100, Anchorage, Alaska 99501. The comments must be received no later than 5:00 p.m. on June 21, 2010.

Oral or written comments also may be submitted at a hearing to be held from 9:00 a.m. to 12:00 p.m. on July 8, 2010, at 333 West 7th Avenue, Suite 100, Anchorage, Alaska 99501. The hearing might be extended to accommodate those present before 9:30 a.m. who did not have an opportunity to comment.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jody Colombie at (907) 793-1221 no later than June 30, 2010 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Jody Colombie at 333 West 7th Avenue, Suite 100, Anchorage, Alaska 99501, or go to www.aogcc.state.gov.

After the public comment period ends, the Alaska Oil and Gas Conservation Commission will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments received are public records and are subject to public inspection.

Statutory Authority: AS 31.05.030

Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030


Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 5/14/10



Daniel T. Seamount, Jr. Chair, Commissioner

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Oil and Gas Conservation Commission.
2. General subject of regulations: annular disposal of drilling waste.
3. Citation of regulations: 20 AAC 25.080.
4. Reason for the proposed action: update the annular disposal of drilling waste regulations and to codify current regulatory requirements.
5. Program category and BRU affected: Alaska Oil and Gas Conservation Commission.
6. Cost of implementation to the state agency: zero.
7. The name of the contact person for the regulations:
Name: Daniel T. Seamount, Jr.
Title: Commissioner, Chair
Address: 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501
Telephone: (907) 793-1221
E-mail: jody.colombie@alaska.gov
8. The origin of the proposed action: agency staff.
9. Date: May 14, 2010.
10. Prepared by: 
Jody J. Colombie
Alaska Oil and Gas Conservation Commission
(907) 793-1221

STATE OF ALASKA

NOTICE TO PUBLISHER

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333 West 7th Avenue. Suite 100
Anchorage, AK 99501

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Anchorage Daily News
PO Box 149001

Anchorage, AK 99514

AGENCY CONTACT

DATE OF A.O.

Jody Colombie

May 14, 2010

PHONE

PCN

(907) 793 -1221

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United states of America

State of _____ ss

_____ division.

Before me, the undersigned, a notary public this day personally appeared

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he/she is the _____ of _____

Published at _____ in said division _____ and

state of _____ and that the advertisement, of which the annexed is

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_____ 2010, and thereafter for _____ consecutive days, the last publication

appearing on the _____ day of _____, 2010, and that the rate

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This _____ day of _____ 2010,

Notary public for state of _____

My commission expires _____

REMINDER

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A CERTIFIED COPY OF THIS AFFIDAVIT OF PUBLICATION
MUST BE SUBMITTED WITH THE INVOICE.

ATTACH PROOF OF PUBLICATION HERE.

20 AAC 25.080 is repealed and readopted to read:

20 AAC 25.080. Annular disposal of drilling waste

- (a) Drilling waste, as defined in (i) of this section, may not be disposed through the annular space of a well unless authorized by the commission under this section. The operator of a well for which a permit to drill has been issued by the commission may request authorization to dispose of drilling waste through the well's annular space by filing an Annular Disposal Application (Form 10-403AD), including all the information required under (e) of this section.
- (b) Annular disposal of drilling waste will be limited to
 - (1) 35,000 barrels through the annular space of a single well;
 - (2) wastes generated by drilling operations on the same drill pad or platform as the disposal annulus;
 - (3) 90 days of actual disposal within a one-year approval period; and
 - (4) a one-year period beginning on the date of approval of the Annular Disposal Application.
- (c) Drilling waste must not
 - (1) migrate from the approved disposal interval;
 - (2) impair the mechanical integrity of any well; or
 - (3) damage a producing or potentially producing formation or impair the recovery of oil or gas.
- (d) An application for authorization under this section will not be complete unless it includes or references (*i.e.*, if the information is on file with the commission) the following information:
 - (1) a schematic of the well proposed to receive the drilling waste;
 - (2) lists and plats identifying
 - (A) all wells and well branches that penetrate the disposal interval within a one-quarter mile radius of the surface casing shoe of the disposal annulus; the well paths of all wells and well branches must be shown on the plat, and the planar distances from all wells and well branches to the surface casing shoe of the disposal annulus must be provided;
 - (B) all publicly recorded water wells within a one-mile radius of the surface location of the well that would receive the drilling waste; and

- (C) all operators and surface owners within a one-quarter mile radius of the surface casing shoe of the disposal annulus;
- (3) the measured and true vertical depths at the base of any freshwater aquifer(s) and permafrost;
 - (4) an assessment of shallow seismic information in the area of the receiving well, where available, with an interpretation of faults and other anomalies;
 - (5) a stratigraphic description of and off-set well log(s) across the disposal interval showing the drilling waste receiving and confining intervals;
 - (6) a description of the drilling waste, including its composition and well source, and the identification of any waste that falls within (i)(3) of this section;
 - (7) the estimated density of the drilling waste slurry;
 - (8) the anticipated maximum pressure at the surface and at the surface casing shoe during the disposal operations; the calculations showing how the surface casing shoe pressure value was determined must be provided;
 - (9) information demonstrating that the inner and outer casing strings have sufficient collapse and burst strength to withstand the maximum anticipated pressure of disposal operations;
 - (10) information demonstrating that the surface casing shoe
 - (A) is set below the base of permafrost and any freshwater; and
 - (B) is adequately cemented to provide isolation; the information required under this sub-section must include
 - (i) casing and cementing records for both casings forming the annulus;
 - (ii) casing and cementing records for all wells that penetrate the disposal interval within a one-quarter mile radius of the surface casing shoe;
 - (iii) the results of a leak-off test conducted below the surface casing shoe, or, if leak-off is not attained, the results of a formation integrity test conducted below the surface casing shoe;
 - (iv) the results of an injectivity test conducted below the surface casing shoe; and
 - (v) if required by the commission, a cement quality or other log(s);
 - (11) a list and description of any uncemented significant hydrocarbon zones within the disposal annulus;

- (12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;
 - (13) if drilling waste was previously disposed of through the annular space of the well, the dates of the disposal operations, the types and volumes of each type of waste disposed of, and the sources of the waste; and
 - (14) additional information and analyses required by the commission.
- (e) Annular disposal operations must comply with the following conditions:
- (1) the downhole disposal pressure may not at any time exceed the downhole pressure measured during the formation leak-off test that was conducted below the surface casing shoe unless the commission approves a higher pressure;
 - (2) the operator must continuously monitor the following during disposal operations: the types and volumes of each type of waste disposed, disposal rates, surface pressures of the receiving well's disposal annulus, and, as specified by the commission, surface pressures of the annuli of all wells within a one-quarter mile radius of the surface casing shoe of the receiving well and surface pressures of the receiving well's outer annuli and tubing;
 - (3) the operator shall immediately cease disposal, notify the commission within 24 hours, and take all appropriate remedial action, including but not limited to any action ordered by the commission, if
 - (A) there is evidence of a breach of the disposal annulus or migration of fluids from the disposal interval;
 - (B) disposal operations pose a threat to well integrity, health or safety, hydrocarbon-bearing zones, correlative rights, or the environment, including freshwater; or
 - (C) there is any unauthorized disposal;
 - (4) the operator shall file with the commission an incident report within 10 working days after any incident requiring action under (f)(3) of this section; the incident report shall include a description of any actions taken and the effects and results of those actions; and
 - (5) the operator shall comply with any other conditions the commission determines are important to ensure compliance with any limitations or requirements of this section.
- (f) The operator shall

- (1) not later than 30 days after each calendar quarter during an authorized disposal operation period, file with the commission a Report of Annular Disposal (Form 10-423); and
 - (2) file additional information and analyses as required by the commission.
- (g) Upon written request of the operator, the commission may approve a variance from a requirement of this section if the variance provides at least an equally effective means of complying with the requirement, or a waiver of a requirement of this section if the waiver will not promote waste, is based on sound engineering and geoscience principles, will not jeopardize the ultimate recovery of hydrocarbons, will not jeopardize correlative rights, and will not result in an increased risk to health, safety, or the environment, including freshwater.
- (h) In this section, "drilling waste" means the following substances, unless identified as a "hazardous waste" in 40 C.F.R. 261:
- (1) drilling mud, drilling cuttings, reserve pit fluids, cement-contaminated drilling mud, completion fluids, formation fluids associated with the act of drilling a well permitted under 20 AAC 25.005, and any added water needed to facilitate the pumping of drilling mud or drilling cuttings;
 - (2) drill rig wash fluids and drill rig domestic waste water; and
 - (3) other substances that the commission determines, upon the operator's written request, are wastes associated with the act of drilling a well permitted under 20 AAC 25.005. (Eff. 9/22/96, Register 129; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030

AS 31.05.040

SERVICE LIST FOR PROPOSED AMENDMENTS TO 20 AAC 25.080

On May 14, 2010, I mailed to the following individuals the public notice of proposed amendments to 20 AAC 25.080, additional regulations notice information, and proposed regulations:

Annette Kreitzer
Commissioner
Department of Administration
PO Box 110200
Juneau, AK 99811

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Chief Assistant Attorney General
Legislation and Regulations Section
Department of Law
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Jerry Hodgden
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President
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Anchorage, AK 99503

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Anchorage, AK 99503

Ivan Gillian
9649 Musket Bell Cr.#5
Anchorage, AK 99507

Jill Schneider
US Geological Survey
4200 University Dr.
Anchorage, AK 99508

Gordon Severson
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*Mailed
5/14/10*

Colombie, Jody J (DOA)

From: Colombie, Jody J (DOA)
Sent: Friday, May 14, 2010 9:10 AM
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Subject: Proposed to Changes to 20 AAC 25.080 Annular Disposal
Attachments: Public Notice, Additional Information, Regulations Annular Disposal 5-14-10.pdf

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080).

The AOGCC notices the changes to 20 AAC 25.080 as follows:

1. modify the information that must be submitted with an annular disposal application;
2. modify the limitations and conditions applicable to annular disposal;
3. add a provision for requesting variances and waivers; and
4. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

Jody J. Colombie
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#11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

MAY 14 2010

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-082

Thomas A. Ballantine
Assistant Attorney General
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501-5903

Re: Amendment to Annular Disposal Regulations

Dear Mr. Ballantine:

The U.S. Environmental Protection Agency (EPA) received your letter of April 6, 2010, on behalf of the Alaska Oil and Gas Conservation Commission (AOGCC). Your letter requests EPA's response to questions posed by AOGCC, and to public comment received by AOGCC during the course of the Commission's most recent public hearing regarding AOGCC's proposed amendments to 20 AAC 080.

You pose several questions in your letter about EPA's understanding of the facts and issues at hand that we agree should be clarified. Rather than exchanging letters, EPA suggests appropriate staff from AOGCC and Alaska's Assistant Attorney General's office meet with staff from EPA's regional UIC program, Office of Regional Counsel, and Alaska Operations Office to address the questions posed by your letter. If possible, we urge discussion to occur prior to your next public hearing on these regulatory changes, so the Commission can complete its proposed regulatory changes with the foreknowledge of EPA's position. It is important to have a mutual understanding of the historical context, the relevant regulation and policies, and current practices as they relate to the 1991 Memorandum of Agreement between EPA and AOGCC, and in particular, paragraphs 10 and 14, regarding annular disposal and Aquifer Exemptions, respectively. With respect to questions posed to the Commission during the recent public hearing, we offer the following in response to factual inquiries transmitted in and with your letter of April 6, 2010.

The most recent policy discussion Region 10 is aware of concerning annular disposal is an internal EPA memorandum from the Chief of the Prevention Branch to UIC Program Managers (prepared July 22, 2006, Enclosed). The memorandum discussed a National Technical Workgroup Product Issue #7 (August 3, 2004, as amended June 23, 2005), and defers to EPA regional UIC program offices, working with states, to ensure annular disposal practices are protective of Underground Sources of Drinking Water (see Enclosure). Tom Maunder represented AOGCC as a participant on that work group effort. The federally authorized UIC program governing Class II wells in Alaska was codified at 40 C.F.R. 147.100 pursuant to Section 1425 of the SDWA, which was published in the federal register May 6, 1986, and made effective as of June 19, 1986. The codification in Part 147 describes those documents and portions of the regulations that were part of EPA's authorization. Similar to many states, EPA is

aware that Alaska has made changes to its regulations since the initial 1986 program approval that have not been codified by EPA. EPA conducted a program review in 2008 in which we concluded that AOGCC's program was effective. The 2008 review did not include an evaluation of AOGCC's current regulations.

EPA is available to discuss this reply and the questions posed in your letter. Please contact Ankur Tohan of Region 10's Office of Regional Council (206) 553-1796, or AOGCC staff can contact Thor Cutler at (206) 553-1673 or, to schedule a time to discuss these matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Contreras', with a long, sweeping horizontal line extending to the right.

Peter Contreras, Manager
Ground Water Unit

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20004

OFFICE OF
WATER

MEMORANDUM

SUBJECT: National Technical Workgroup Products "Annular injection of drilling wastes into production wells" and "Does a fixed radius area of review meet the statutory mandate and regulatory requirements of being protective of USDWs under 144.12?"

FROM: Ann Codrington, Chief
Prevention Branch

TO: UIC Program Managers

During the May UIC Managers Meeting in Kansas City, you requested a final determination on the two papers, "Annular injection of drilling wastes into production wells" and "Does a fixed radius area of review meet the statutory mandate and regulatory requirements of being protective of USDWs under 144.12?." These papers were submitted by the National Technical Workgroup (NTW) in 2005, to Headquarters for any further action, and no follow up actions have been taken. This memo summarizes our decision not to take further action.

Headquarters staff and management reviewed the papers and the NTW recommendations and decided not to act on the workgroup's recommendations on either of the two work products for the following reasons:

1. Annular injection of drilling wastes into production wells: The NTW began work on this issue because the UIC Program was concerned that the practice of injecting drilling wastes into the annulus was widespread and could endanger USDWs. After a review of available information, EPA Headquarters learned that only two states allow for such annular disposal into production wells; Louisiana and Alaska. Because the practice is not widespread, as originally thought, this issue is more appropriately addressed at the regional or state level considering the more localized nature of the practice.
2. Does a fixed radius area of review (AOR) meet the statutory mandate and regulatory requirements of being protective of USDWs under 144.12? The NTW reviewed existing information, previous reports and the legislative history to determine if ¼ mile fixed radius AOR without consideration of a calculated zone of endangering

influence (ZEI) was adequate to protect public health. The NTW recommended Headquarters develop and adopt additional AOR technical guidance clarifying the protective standard of 144.12. There was general belief among the Regions that in many circumstances (i.e., when the calculated ZEI is greater than ¼ mile), a ¼ mile fixed radius AOR may not afford adequate protection to USDWs. However, state members of the NTW did not agree. After a survey of additional states was completed by GWPC in 2005, the GWPC also asserted that they did not agree that the data indicated a ¼ mile fixed radius AOR was inadequate. EPA Headquarters has agreed not to move forward on the NTW recommendations at this time pending results of a new survey that GWPC agreed to take regarding the use of a fixed radius AOR versus calculated ZEI and how these relate to contamination incidents in the 1425 primacy states.

When EPA approved UIC programs for states Class II wells under 1425 of the Safe Drinking Water Act, states made a showing that their programs are effective. If, at any time, a Region finds that these programs are no longer effective, they should take appropriate steps to protect underground sources of drinking water and public health.

I would like to thank the National Technical Workgroup for their contributions to the national program. Through their efforts, we have successfully completed and released a number of issue papers and ensured that technical issues that are national in scope are addressed consistently across the regions and are evaluated in a scientifically defensible manner.

#10

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

SEAN PARNELL, GOVERNOR

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PHONE: (907)269-5100
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April 6, 2010

BY U.S. MAIL

Ankur Tohan
Assistant Regional Counsel
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900 (ORC-158)
Seattle, Washington 98101

Re: Amendment To Annular Disposal Regulations

Dear Mr. Tohan,

Thank you for Mr. Contreras's November, 2009 response to the Commission's request for EPA commentary regarding proposed amendments to 20 AAC 25.080. After careful consideration of the contents of, and public comment on, the letter the Commission has additional questions. Mr. Contreras's letter indicates those questions should be addressed to you.

Under the Commission's current regulatory scheme and paragraph 10 of the November 1991 Memorandum of Agreement (MOA) between the Commission and the EPA, annular disposal is exempted from the UIC program. As a result, for years the State has maintained both an EPA-approved UIC program effective to protect freshwater aquifers and an equally effective regulatory scheme governing annular disposal and protection of freshwater sources. Though he neither references the 1991 MOA nor states the EPA believes the AOGCC's current regulatory scheme does not comply with federal law, the premise of Mr. Contreras' letter is that the EPA now deems annular disposal to be an injection activity. Does the EPA view annular disposal as a UIC-regulated injection activity? Does the EPA contend the AOGCC's current long-standing regulatory scheme does not comply with federal law? Is the EPA repudiating the 1991 MOA?

In addition, Mr. Contreras' letter appears to misinterpret the regulatory language proposed by the AOGCC in May, 2009. Specifically, Mr. Contreras asserts the Commission's proposal allowed disposal activities into "any freshwater aquifer with a total dissolved solids content of less than 3000 mg/l[.] See 20 AAC 25.080(e)(10)(A) (May 21, 2009 proposed rule)." However, the plain language of the cited section requires the opposite, *i.e.*, that any application for annular disposal demonstrate that the outer casing shoe will be "below the base of ... any freshwater aquifer ..." and "adequately cemented to

provide isolation" from a freshwater aquifer. How does the EPA construe this language to allow disposal into "any freshwater aquifer?"

While Mr. Contreras agrees the AOGCC's "current process for granting aquifer exemptions under 20 AAC 25.440 is sufficient to ensure an effective program," he contends changes to the May 21, 2009 proposed regulation were necessary because that rule "would authorize the AOGCC, on a case-by-case basis, to grant freshwater aquifer exemptions. See, 20 AAC 25.080(d) (May 21, 2009 proposed rule)," and states that it "would also authorize the AOGCC to use its discretion in avoiding public notice and an opportunity for a hearing before granting an aquifer exemption." The language quoted from proposed subsection (d) is virtually identical to the language contained in subsection (c)(1)(B) of the current 20 AAC 25.080. Are the EPA's comments regarding the May 21, 2009 language limited to annular disposal? Does the EPA contend aquifer exemptions are necessary for matters not within UIC? Does the EPA contend that the Commission's current 20 AAC 25.080, or any part of it, does not comply with federal law? Is the EPA's primary complaint that a public hearing is not mandatory?

Mr. Contreras' final comment is that the May 21, 2009 proposed regulation did not ensure "the EPA would be informed of an aquifer exemption or be allowed the opportunity to review a decision to exempt an aquifer." Given the EPA's comments regarding 20 AAC 25.440, is this statement limited to the issue of annular disposal? Does the EPA contend no state procedure for granting aquifer exemptions can be federally compliant without providing for EPA review of every exemption?

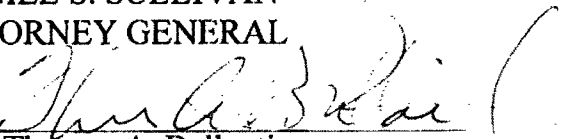
In addition to the Commission's questions, those who testified in response to the letter have propounded four questions which raise issues incapable of resolution by the Commission. To the extent the EPA is inclined to address them, those question are tendered as Exhibit A to this correspondence.

Because another public hearing in this matter is necessary, the Commission requests that the EPA respond within thirty days of the date of this letter. If the EPA declines to comment, the Commission reserves the right to reconsider changing its regulations.

If you have any questions or wish to discuss this matter further, please do not hesitate to contact me by phone, 907.269.5260, or by email, tab.ballantine@alaska.gov.

Sincerely,

DANIEL S. SULLIVAN
ATTORNEY GENERAL

By: 
Thomas A. Ballantine
Assistant Attorney General
Alaska Bar No. 8806122

Encl.

TAB: kp

EXHIBIT A

1. In 1987, the AOGCC and the Alaska oil and gas industry asked EPA Region 10 whether annular injection of drilling muds and cuttings was regulated under the UIC Program. On January 8, 1988 EPA Region 10 wrote the AOGCC a letter explaining the national implications of that request and that EPA headquarters issued a guidance that stated annular injection of drilling fluids into the annulus of an exploration or production well was not regulated under the UIC program. Has EPA headquarters issued a new policy guidance document that rescinds or modifies this prior opinion?
2. Does EPA believe the AOGCC's current regulations are consistent with federal law?
3. What sections of the AOGCC's regulations did EPA review and approved when it authorized AOGCC's Class II program?
4. How does EPA's position stated in the November 2009 letter comply with the EPA/AOGCC Memorandum of Agreement executed in November 1991?

#9

Colombie, Jody J (DOA)

From: Cutler.Thor@epamail.epa.gov
Sent: Wednesday, May 19, 2010 9:00 AM
To: Colombie, Jody J (DOA)
Cc: Maunder, Thomas E (DOA); cutler.thor@epa.gov
Subject: Re: Proposed to Changes to 20 AAC 25.080 Annular Disposal
Attachments: Public Notice, Additional Information, Regulations Annular Disposal 5-14-10.pdf

Jody,

Good morning. I just talked with Tom Maunder this morning, and he directed me to contact you directly.

Some help would be appreciated to provide clarity in the Annular Disposal Regulation Changes proposed on May 14, 2010.

1) Do you have a document that shows the current Alaska "Annular Disposal Regulations" with the proposed changes, as "strikeouts" on the current regulations and the "additions" of added words to the current regulations so that in one place, it is clear what changes are being proposed?

2) Second question for clarity:

4. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

The fourth change (in your notice dated 5/14/2010) as seen (pasted) above is unclear to me. Is AOGCC clearly stating that the State has the authority to regulate annular disposal in water wells... or is the state "deleting", in other words, is AOGCC clearly stating that the State does not have authority to regulate annular disposal in water wells...

Thanks for your assistance in this matter.

Sincerely, Thor Cutler

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 <jflack@bhb.com>

Date: 05/14/2010 10:14 AM

Subject: Proposed to Changes to 20 AAC 25.080 Annular Disposal

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080).

The AOGCC notices the changes to 20 AAC 25.080 as follows:

1. modify the information that must be submitted with an annular disposal application;
2. modify the limitations and conditions applicable to annular disposal;
3. add a provision for requesting variances and waivers; and
4. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

Jody J. Colombie
 Special Assistant
 Alaska Oil and Gas Conservation Commission
 333 West 7th Avenue, Suite 100
 Anchorage, AK 99501
 (907)793-1221 (phone)
 (907)276-7542 (fax)

(See attached file: Public Notice, Additional Information, Regulations Annular Disposal 5-14-10.pdf)

#8

Colombie, Jody J (DOA)

From: Norman, John K (DOA)
Sent: Friday, February 19, 2010 4:34 PM
To: Kanady, Randall B
Cc: Foerster, Catherine P (DOA); Seamount, Dan T (DOA)
Subject: RE: CPAI Questions to AOGCC to ask EPA

Thank you Randall,

The questions we submit will be AOGCC's; however, we will carefully consider your suggestion and attempt to incorporate it into what we ask EPA.

After we receive and consider EPA's response we will re-notice the matter for public hearing and comment.

Sincerely,

John K. Norman

John K. Norman
Commissioner
Alaska Oil & Gas Conservation Commission
333 W. 7th Avenue, Ste. 100
Anchorage, Alaska 99501
tel. (907) 793-1234
John.Norman@alaska.gov

From: Kanady, Randall B [<mailto:Randall.B.Kanady@conocophillips.com>]
Sent: Friday, February 19, 2010 4:21 PM
To: Norman, John K (DOA)
Cc: Fullmer, Barbara F (LDZX); Noel, Brian; Roberts, Bowen E
Subject: CPAI Questions to AOGCC to ask EPA

Hello John,

In the February 16, 2010 AOGCC hearing on Annular Injection, AOGCC requested that industry submit questions for EPA regarding the Annular Injection. AOGCC said that they would forward those questions onto EPA. In addition to the question that AOGA submitted, CPAI has one more additional question for EPA:

How does EPA's position stated in the November 2009 letter comply with the EPA/AOGCC Memorandum of Agreement executed in November 1991?

Please let me know if you have any questions,

Randall Kanady, P.E.
Drilling and Wells
ConocoPhillips Alaska
Office: 907-263-4126
Cell: 907-830-0742
randall.b.kanady@conocophillips.com

Colombie, Jody J (DOA)

From: Norman, John K (DOA)
Sent: Friday, February 19, 2010 4:23 PM
To: moriarty@aoga.org
Cc: Foerster, Catherine P (DOA); Seamount, Dan T (DOA)
Subject: RE: Suggested Questions to EPA

Thank you kara,

We will consider these suggestions as we frame our question(s) to EPA. AOGA and its members are, of course, also entitled to communicate directly with EPA.

We intend to do our best to sort through this, following which the proposed regulations will be re-noticed for a final public hearing.

Sincerely,

John K. Norman

John K. Norman
Commissioner
Alaska Oil & Gas Conservation Commission
333 W. 7th Avenue, Ste. 100
Anchorage, Alaska 99501
tel. (907) 793-1234
John.Norman@alaska.gov

From: Kara Moriarty [mailto:moriarty@aoga.org]
Sent: Friday, February 19, 2010 4:09 PM
To: Norman, John K (DOA)
Subject: Suggested Questions to EPA

Commissioner Norman:

As a follow up to the hearing held on February 16, 2010 on the proposed regulations regarding annular disposal of waste, AOGA would like to submit the following questions for your review and consideration for inclusion to your future correspondence with EPA.

If you have any questions, please feel free to give me a call.

Thanks, Kara

- 1) In 1987, the AOGCC and the Alaska oil and gas industry asked EPA Region 10 whether annular injection of drilling muds and cuttings was regulated under the UIC Program. On January 8, 1988 EPA Region 10 wrote the AOGCC a letter explaining the national implications of that request and that EPA headquarters issued a guidance that stated annular injection of drilling fluids into the annulus of an exploration or production well was not regulated under the UIC program. Has EPA headquarters issued a new policy guidance document that rescinds or modifies this prior opinion?
- 2) Does EPA believe the AOGCC's current regulations are consistent with federal law?

- 3) What sections of the AOGCCs regulations did EPA review and approved when it authorized AOGCC's Class II program?

Kara Moriarty
AOGA Deputy Director
121 W. Fireweed - Suite 207
Anchorage, AK 99503
(907) 272-1481
www.aoga.org

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STATE OF ALASKA

ALASKA OIL & GAS CONSERVATION COMMISSION

Before Commissioners: Daniel T. Seamount, Chair
John Norman
Cathy Foerster

In the Matter of the Proposed)
Changes In the Regulations of the)
ALASKA OIL & GAS CONSERVATION)
COMMISSION, Title 20 of the Alaska)
Administrative Code 20 AAC 25.080)
ANNULAR DISPOSAL OF DRILLING WASTE)
_____)

ALASKA OIL & GAS CONSERVATION COMMISSION
Anchorage, Alaska

**VOLUME II
PUBLIC HEARING**

February 16, 2010
9:00 o'clock a.m.
Anchorage, Alaska

BEFORE: DANIEL T. SEAMOUNT, JR., CHAIR, AOGCC
JOHN NORMAN, COMMISSIONER, AOGCC

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1 the initial meeting so in the interest of consistency
2 Commissioner Norman will continue to chair this hearing.
3 Commissioner Norman.

4 COMMISSIONER NORMAN: Thank you, Commissioner Seamount.
5 And welcome to the Commission's never ending process of
6 amending -- or proposing amendments to Section 080 of Chapter
7 25 of the Alaska Administrative Code.

8 For the record, if there are any persons present who have
9 a disability that might prevent them from fully participating
10 in this hearing and if you need a special accommodation such as
11 assistance to help you either see better, hear better or
12 otherwise participate, please, see the Commission's executive
13 secretary Darlene Ramirez. She's in the rear of the room and
14 she will assist you.

15 We have several persons who have indicated an intention to
16 testify today and so we will proceed with testimony. Since
17 this is a re-notification of a continuing process, I think a
18 bit of background would first be helpful.

19 On May 22nd, 2009, the Commission first published a notice
20 of proposed changes to 20 Alaska Administrative Code 25.080.
21 Comments were received. The Commission considered those
22 comments and then a revised draft was prepared and re-noticed
23 on September 3rd, 2009.

24 On October 15th, 2009, the Commission convened a Public
25 Hearing on the revised revision of the proposed amendments to

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1 Section 080. Based upon commentary at that hearing the AOGCC
2 then adjourned the hearing so that we could receive written
3 input from the United States Environmental Protection Agency
4 regarding their position on one section in particular of the
5 proposed amendments.

6 By correspondence dated November 20, 2009, the EPA sent
7 back its position. On January 8th of this year, 2010, the
8 Commission then re-noticed the changes and I'll summarize them
9 briefly.

10 The changes will modify the aquifer exemption for the
11 disposal of drilling waste to require the operator to apply for
12 and the U. S. EPA to grant an aquifer exemption. Will modify
13 the information that must be submitted with an annular disposal
14 application. Will modify the limitation and conditions
15 applicable to annual disposal. Will add a provision for
16 request variances and waivers. And will delete subsection (i)
17 to recognize the AOGCC's -- well, they currently specify
18 AOGCC's authority to regulate annular disposal in water wells
19 associated with oil and gas exploration or production.

20 Notice of this hearing was duly published in the Anchorage
21 Daily News. Any persons desiring to see a copy of that notice
22 can see the Commission's executive secretary Darlene Ramirez.

23 This hearing is proceeding in accordance with the general
24 hearing regulations under the Alaska Administrative Procedures
25 Act. These are found at Alaska Statute 44.62 and the

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1 Commission's own regulations for conducting Public Hearings
2 which are found at 20 AAC 25.540.

3 Although this is a re-notification of the regulations
4 because of the lapse of time I think it will be helpful because
5 there is a continuing record that spans now nine months or so
6 to quickly read what the Commission has in the record in
7 addition to the drafts of the various regulations. So I'll go
8 through this and if there is anything that you do not have a
9 copy of that you'd like a copy of, again, see Darlene Ramirez
10 and she will see that you obtain the copy.

11 We have a July 2nd, 2009, letter from a Ms. Dana Olson
12 requesting various changes to the hearing date. We have a July
13 14th AOGCC response to Ms. Olson. We have the various
14 affidavits and notices of hearing and mailing -- the
15 publication and mailing May 22nd, September 3rd and the notice
16 and affidavit for this particular hearing which was published
17 on January 8th, 2010.

18 We have a transcript of the hearing conducted on these
19 proposed amendments. That transcript being dated October 15th,
20 2009. And that transcript will also form the part of the
21 larger record when we eventually complete this process, so I do
22 mention that in addition to the transcript of today's hearing.

23 In the record also we have various comments. We have
24 comments dated June 25th, 2009 from the Alaska Oil and Gas
25 Association, comments dated June 30, 2009 from ConocoPhillips.

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1 Comments dated September 21st, 2009 from the United States
2 Environmental Protection Agency. Comments dated October 9th,
3 2009 from ConocoPhillips. Comments of the same date from the
4 Alaska Oil and Gas Association. Comments dated February 8th,
5 2010 from ConocoPhillips. Comments of the same date from the
6 Alaska Oil and Gas Association.

7 And we have in the record also a letter dated October
8 28th, 2009 from the State of Alaska, Department of Law to the
9 EPA inviting them to submit comments. And then we have a
10 letter dated November 20th, 2009 which is the response from the
11 EPA. And finally we have a copy of an e-mail invitation sent
12 on February 10th, 2010 inviting the EPA to attend today and
13 testify.

14 On the particular subject the EPA did respond and indicate
15 they would not be able to have someone here that would be in a
16 position to testify today, but they did indicate that if the
17 Commission had further questions and would put them in writing
18 and submit them to the EPA that a response would be
19 forthcoming. So on that -- hold that thought because we may
20 very well at the conclusion of the hearing determine that we do
21 wish to propound further questions to the EPA.

22 We'll now proceed in accordance with the normal practice
23 of the Commission to call witnesses and it is the Commission's
24 practices to swear witnesses and have you state your background
25 and credentials so that we can take your experience and

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1 training into consideration as we weigh the comments being
2 placed into the record.

3 We have with us today one of the Commission's lead Staff
4 members, Dr. Winton Aubert. And Dr. Aubert, unless you have
5 something to add to what I have just said, I would ask you to
6 just remain available in case we need to call you. May I ask
7 at this time is there anything that you feel is needed to set
8 the background for this hearing?

9 DR. AUBERT: No, there is not.

10 COMMISSIONER NORMAN: Very well. For the record the
11 person speaking was Commission Staff member Dr. Winton Aubert,
12 senior petroleum engineer.

13 Very well, then we will go to the listing of persons
14 wishing to testify and I'll call the names in the order that
15 they have signed up. The first that we have is Attorney Randal
16 Buckendorf indicating affiliation with the Alaska Oil and Gas
17 Association and BP. Mr. Buckendorf, did you intend to testify
18 today?

19 MR. BUCKENDORF: I do. If the Commission pleases we would
20 ask that Kara speak on behalf of the organization first and
21 then Harry Engel and myself would be available.

22 COMMISSIONER NORMAN: Certainly.

23 MR. BUCKENDORF: We would comment after that.

24 COMMISSIONER NORMAN: Sure. And so why don't we then
25 instead of this, why don't we hear from the Alaska Oil and Gas

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1 Association in whatever order is convenient for you all.

2 MR. BUCKENDORF: Thank you.

3 MS. MORIARTY: Good morning. Thank you, Commissioner.
4 For the record my name is Kara Moriarty. I'm the deputy
5 director of the Alaska Oil and Gas Association. And on behalf
6 of our 14 members we appreciate the opportunity to testify
7 again on the set of regulations. As.....

8 COMMISSIONER NORMAN: Ms. Moriarty, I'll just go ahead and
9 for the record I will put you under Oath if you'll raise your
10 right hand.

11 (Oath Administered)

12 MS. MORIARTY: Yes, sir.

13 COMMISSIONER NORMAN: Please proceed.

14 **KARA MORIARTY**

15 called as a witness on behalf of the AOGA, testified as follows
16 on:

17 **DIRECT EXAMINATION**

18 MS. MORIARTY: Thank you, Commissioner. As I stated the
19 Alaska Oil and Gas Association is -- accounts for the majority
20 of oil and gas exploration, development, production,
21 transportation, refining, and marketing activities here in the
22 State. We have appreciated the opportunity to present
23 testimony back in October of 2009 and, again, we provide
24 additional written testimony, as well as we have legal and
25 drilling expertise that will speak to our comments.

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1 You will see that we have some serious concerns that
2 remain and Randal Buckendorf, the legal attorney and Harry
3 Engel, the drilling engineer will walk through those.

4 I will tell you that of our 14 member companies we had
5 four active members participate in the development of these
6 comments, both representing North Slope interests as well as
7 Cook Inlet. And today our two experts just happen to be from
8 the same company, but I wanted the Commission to know that we
9 did have broad input from a variety of our members on these
10 comments.

11 COMMISSIONER NORMAN: Ms. Moriarty, you indicated of the
12 14 you had four active, does that indicate that there was some
13 dissent on the part of any of the others or simply that.....

14 MS. MORIARTY: No, they just didn't have any
15 representatives at our meetings. All of the member companies
16 saw the comments before they were submitted to you.

17 COMMISSIONER NORMAN: Thank you. Mr. Engel and Mr.
18 Burkendorf, you are both well known to this Commission having
19 appeared here numerous times before, but for the record I will
20 first swear both of you and then whatever order you want, ask
21 you to state your full names, your positions and your
22 background and experience.

23 Right now if you will both first raise your right hands.
24 (Oath Administered)

25 MR. BUCKENDORF: I do.

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1 MR. ENGEL: I do.

2 COMMISSIONER NORMAN: Very well, so proceed in whichever
3 order is most convenient.

4 HARRY ENGEL

5 called as a witness on behalf of the AOGA, testified as follows
6 on:

7 DIRECT EXAMINATION

8 MR. ENGEL: Thank you, Commissioner Norman. Good morning,
9 Commissioner Seamount. I'm disappointed we don't have Cathy
10 Foerster here this morning to help us with our hearing. She
11 usually adds a little color to our sessions.

12 For the record my name is Harry Engel and today I'm
13 representing the Alaska Oil and Gas Association as chairman of
14 the Alaska Oil and Gas Conservation Commission Task Group.

15 My full time is engineering team leader with BP
16 Exploration here in Alaska. And my responsibilities are
17 involved with mainly well integrity issues and operational
18 issues in our drilling of wells organization.

19 I have 30 years of experience in the oil and gas industry
20 mainly in drilling engineering, well site leader, health,
21 safety and environment rolls and also well integrity. I hold
22 two undergraduate degrees in engineering and I've been working
23 in Alaska since 1984 and my experience also includes some
24 international assignments as well. Any questions regarding my
25 background?

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1 CHAIR SEAMOUNT: I have none, Mr. Engel.

2 COMMISSIONER NORMAN: No, Mr. Engel. Thank you and for
3 putting your qualifications into the record and, please,
4 proceed.

5 MR. ENGEL: Yes, thank you, Commissioner. As Kara said,
6 AOGA in the past has provided written comments and oral
7 testimony on this topic at the last hearing. And the majority
8 of our comments are related to the process in which these
9 regulations have been proposed to be repealed and re-adopted.
10 And we've also submitted comments on February 8th, 2010, which
11 I would like to be -- have them to be included in part of the
12 record for this -- this hearing this morning.

13 And considering the long history of this topic related to
14 the Safe Drinking Water Act and EPA regulations I have
15 requested Randal Buckendorf, who is an attorney in BP's legal
16 staff and also assists us on the AOGA Task Group to be present
17 this morning and to go through the analysis Randal prepared and
18 presented in our letter dated February 8th.

19 And I will remain here to address any technical or
20 operational issues that may come up during the hearing this
21 morning, so I'd like to introduce Randal Buckendorf to present
22 the analysis he put together for us.

23 COMMISSIONER NORMAN: Mr. Buckendorf, if you would just
24 briefly identify yourself for the record, please?

25 **RANDAL BUCKENDORF**

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1 called as a witness on behalf of AOGA, testified as follows on:

2 **DIRECT EXAMINATION**

3 MR. BUCKENDORF: Yes. Commissioner Norman, Commissioner
4 Seamount, for the record my name is Randal Buckendorf,
5 B-u-c-k-e-n-d-o-r-f. I'm an attorney with BP in Alaska. I
6 also serve as the chair of the AOGA Legal Subcommittee.

7 I've been practicing law in Alaska since 1993. I have
8 worked in private practice for the State of Alaska, Department
9 of Environmental Conservation, many years with ARCO, with
10 Phillips, ConocoPhillips and BP.

11 I've been practicing in the area of oil and gas and
12 environmental law that entire time frame and prior to law
13 school was managing an environmental section of a large mining
14 company in Nevada. I've been participating in Safe Drinking
15 Water Act, underground injection well activities since the mid-
16 1980s and in the regulation of solid and hazardous waste that
17 entire time frame as well.

18 COMMISSIONER NORMAN: Do you have any questions.....

19 CHAIR SEAMOUNT: No. Thank you, Mr. Buckendorf.

20 COMMISSIONER NORMAN: Please proceed.

21 MR. BUCKENDORF: Thank you. I apologize for the length of
22 our comments and the technical nature, the legal nature of
23 those. As I passed them on to AOGA I had to walk through a
24 history. We had many, very lengthy meetings where I was trying
25 to basically walk us through how, I believe, we got to where we

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1 are today.

2 The history of this particular section of regulations is
3 something I've looked at for, you know, almost, you know, two
4 decades now. The practice by which the Commission regulates
5 annular injection, the practice by which the Commission
6 regulates the underground injection of wastes under EPA's UIC
7 Program has largely been in place and unchanged since the mid-
8 1980s.

9 As I discussed in the October 15th hearing, a critical
10 component of that was discussed between the Commission, between
11 the Alaska oil and gas industry and EPA in the 1980s. And if I
12 could maybe I'll walk through the letter and a historical
13 overview of the Safe Drinking Water Act, how we got to the
14 regulations that currently exist and then through the proposed
15 changes.

16 COMMISSIONER NORMAN: Mr. Buckendorf, if I could again for
17 the record, the letter you will be referring is in the
18 Commission's file. I want to make sure that that is correct,
19 and that would be the letter dated February 8th, 2010,
20 regarding AOGA Comments on Annular Disposal of Drilling Waste
21 citing the regulation and signed by the deputy director of
22 AOGA, is that correct?

23 MR. BUCKENDORF: That is correct.

24 COMMISSIONER NORMAN: Very well.

25 MR. BUCKENDORF: It's the same comment letter Mr. Engel

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1 asked be added to the record.

2 The Safe Drinking Water Act was first written in 1974. It
3 was heavily amended in 1986. And it was amended in 1986
4 because at that same time Congress was enacting a very
5 prescriptive statutory regime for solid and hazardous waste,
6 the Resource Conservation Recovery Act. The two programs are
7 designed to work together.

8 The regulations that EPA has developed under RCRA and the
9 underground injection control reference each other. They have
10 very similar definitions of drinking water and they're designed
11 to work in unison.

12 At the same time, you know, the Commission had long prior
13 to 1986 regulated the drilling of oil and gas wells. Had a
14 Memorandum of Understanding with the EPA for assuming what was
15 then the Class II, what amounts to today's Class II Program.
16 Underground injection control wells are unregulated under five
17 classes of wells.

18 Class II are non-hazardous injection wells on the North
19 Slope and the rest of the State that the Commission regulates.
20 The Class II Program is the Oil and Gas Program. That is set
21 out in regulation that the Commission sought approval from EPA
22 from under Section 25.252 Underground Disposal, that's the
23 Class II (d) and many sections of regulations on EOR wells
24 which are not covered by this hearing.

25 Part of the 252 program is also 25.440, that's the

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1 freshwater aquifer exemption, both of those sections of
2 regulation have largely been in place since 1986 and have
3 remained unchanged almost since that time.

4 One of the critical aspects of today's rulemaking is
5 whether or not EPA in its comments is correct in asking and
6 essentially demanding, that the Commission when it consider
7 whether or not to approve annular injection under oil and gas
8 activities, annual injection, whether that's regulated under
9 the Safe Drinking Water Act, whether that is regulated under
10 EPA's regulations and whether or not, in my opinion, EPA has to
11 approve the changes to these regulations as part of its
12 approval program for the State of Alaska's Class II Program.

13 I believe EPA is incorrect in its assessment and I think
14 the record -- 20 year record makes that clear.

15 Our October comments, that are also part of the record
16 dated October 9, 2009, that we discussed in the hearing October
17 15th, walked through the history of annular injection. And the
18 Commission had long decided in the 1980s that annular
19 injection, the regulation of -- the drilling of oil and gas
20 wells itself was not regulated by the Federal Government. EPA
21 agreed with that.

22 At the request of an ARCO attorney who had worked for EPA,
23 the industry and the Commission sought approval from EPA
24 headquarters that the annular injection of drilling waste was
25 not regulated under the Safe Drinking Water Act. EPA

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1 headquarters agreed with that and that is set out in our
2 comments. I mention it again. I would be happy to provide the
3 Commission -- I did not bring my files in. I have over
4 probably three feet of files on UIC wells and the whole history
5 of this.

6 The history of that is also set out in a 1987 -- you know,
7 and Congress when they were enacting the changes in 1986 to the
8 Safe Drinking Water Act and to RCRA, they asked EPA to go out
9 and look at and assess the risks from the entire oil and gas
10 industry in the entire country nationwide. And EPA put
11 together a five volume document that looked at that and they
12 talked about terms like exempt waste and non-exempt waste,
13 Class II, Class I and essentially what EPA was asked to look at
14 is whether or not Congress should develop a some strict
15 regulatory structure for oil and gas waste.

16 And the injection -- annular injection of drilling waste
17 is discussed in that document as well and that all occurred in
18 1987. And it was in 1987 when the EPA itself said annular
19 injection of drilling waste is not regulated by EPA. That is
20 basically what formed the heart of the AOGCC's current
21 regulatory program for annular disposal and why it's a separate
22 section of regulations than Class II (d) disposal in 25.252.
23 It's also why 25.252(k) says, the annular disposal of drilling
24 wastes is an operation incidental to drilling of a well and is
25 not a disposal operation subject to this section.

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1 That's also reflected in the MOU. The MOU was amended
2 shortly after that 1987 letter from EPA. Since that time it's
3 been clear in Alaska that annular injection is not regulated
4 under the Safe Drinking Water Act. It's not regulated. It's
5 not part of the oversight program by EPA of what the Commission
6 does. And those regulations have been -- you know, have not
7 been changed since that time.

8 So it was a surprise to me when in September 1st, 2009,
9 notice of the changes that all of a sudden in subsection (d)
10 basically the Commission's regulations were proposed to be
11 changed substantially. And it says that drilling waste may not
12 be disposed of into any freshwater unless the operator applies
13 and the U.S. EPA grants an aquifer exemption.

14 Suddenly for the first time in 25 years the Commission was
15 delegating its oversight authority for underground injection to
16 EPA. EPA would have to grant an aquifer exemption. And we
17 looked, we could not find anything in the record that lead to
18 this change. I don't believe it's supported by law. I don't
19 believe that proposed changes is supported by the
20 administrative record or the 20 years of history on this.

21 So that's what we walked through in our comment. How we
22 believe we got where we are. And, I think, the genesis of the
23 requested change by EPA largely deals with the fact that the
24 May 21st rulemaking didn't go through, sort of, a typical
25 rulemaking where you have regulations that are effective and

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1 you redline -- you underline items that are being changed and
2 you bold and cap those items that are being deleted. That
3 wasn't done here. Instead it says, 080 is being repealed and
4 readopted.

5 I believe EPA looked at this and in subsection (d) looked
6 at that and said, wow, this is an all new change. Suddenly the
7 AOGCC is going to grant aquifer exemptions for the disposal of
8 -- for annular injection activities. It's not going to public
9 notice it. It's not even going to ask EPA for its opinion.

10 What EPA didn't realize is that same -- virtually the same
11 identical language has been in place in AOGCC regulations for
12 over 20 years. It's currently in Section (e)(1) of the
13 regulations. It wasn't being changed. I think that is why we
14 got to where we are. It may have been a quick overview of the
15 regulations.

16 The Commission does not grant aquifer exemptions when it
17 walks through the current (e)(1) regulations. That's not the
18 process that is followed.

19 If the Commission wants to grant an aquifer exemption,
20 that's set out in regulation and that's set out in 25.440,
21 that's not required when going through the annular injection
22 process. That proc- -- that's required for a Class II (d)
23 disposal process under the Commission's regulations. There's a
24 distinction.

25 I'd be happy to answer any questions the Commission may

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1 have. The letter is quite detailed. I think in summary, you
2 know, the last -- second to last paragraph in the comment
3 letter walks through what we recommend the Commiss- -- or that
4 Oil and Gas Association recommends. I think we recommend the
5 Commission revert to its current section of regulations if it
6 believes that it needs to adopt the new 25.080. There were
7 some clarifications.

8 You know, the Commission knows itself the process it's
9 been following the last few years to amend the regulations that
10 are on the book to clarify, to restructure, the regulations
11 have needed some work, but I think that led to this issue. The
12 Commission wasn't changing its current regulations. It was
13 simply reorganizing and restructuring them.

14 If the Commission doesn't believe it can do that, then
15 what we would recommend is that the Commission revert to its
16 current 25.080 regulations. If it believes it needs to amend
17 those, that it do so in an amendatory fashion such that the
18 current Section (e)(1) is not changed and that only true
19 amendments be reflected in the rulemaking.

20 Thank you. I'd be happy to answer any questions.

21 COMMISSIONER NORMAN: Commissioner Seamount.

22 CHAIR SEAMOUNT: Commissioner Norman, I believe that
23 previously today you requested that people that testify for the
24 organizations come up with questions directed to EPA, is that
25 correct?

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1 COMMISSIONER NORMAN: We will likely -- and we'll decide
2 at the end of this hearing, but EPA has indicated that they
3 would be willing to respond to questions. The Commission will
4 likely be posing questions to EPA and if there are any matters
5 that any of the persons testifying -- this is what Commission
6 Seamount is referring to, believe would assist the Commission
7 in framing questions to the EPA, we'll be happy to consider
8 them. They'll be the Commission's questions.

9 That said, any person is also free, of course, at any time
10 to communicate directly with EPA and request independent
11 clarification, so that is the thrust of Commissioner Seamount's
12 comment.

13 CHAIR SEAMOUNT: Okay. I have no other questions. I
14 think AOGA is pretty clear on their testimony at this time.
15 Thank you.

16 COMMISSIONER NORMAN: Thank you for some very good
17 history, Mr. Buckendorf. It appears simply stated that this is
18 going to resolve itself down to, perhaps, a legal issue as to
19 whether the Safe Drinking Water Act applies to annular disposal
20 or whether it doesn't, is that an acc- -- I'm trying in a
21 sentence or two just to get to the nub of this.

22 MR. BUCKENDORF: I believe that is correct. And I believe
23 the record is clear that EPA headquarters in 1987 determined
24 that annular disposal is not a regulated activity under the
25 Safe Drinking Water Act.

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1 I know that certain regions, including Region 10, have not
2 agreed with that in recent years. About the same time
3 Commissioner Norman was taking his position in the Commission
4 there was a national UIC working group that looked at this and
5 essentially teed up the question that the Commissioner just
6 asked.

7 There were several regions that looked at it and posed a
8 question to headquarters because at the same time Argon (ph)
9 Laboratories did a nationwide study that looked at what states
10 were doing for annular injection. About half of the states
11 regulate annular injection in the exact same manner the
12 Commission does, outside of an approved UIC Program. Other
13 states do. I don't know how they got there.

14 I believe what the -- what the Alaska Oil and Gas
15 Association as -- what we've looked at as member companies and
16 the record in Alaska is that I believe the Commission is
17 correct in what it does. I do not believe that the Safe
18 Drinking Water Act covers these activities. And in the mid-
19 2000s when the UIC working group posed that question to
20 headquarters, headquarters looked at it and choose not to
21 change its twenty-some year old determination and that's the
22 status of that issue.

23 CHAIR SEAMOUNT: The process that we go through to approve
24 an annular disposal operation is very similar to what we do
25 when we approve -- technically, when we approve a Class II (d)

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1 operation. Do you see -- are there any situations where you
2 would agree that we should not annular dispose of drilling
3 waste in an exploration location?

4 For example, if it's freshwater, you know, if you're going
5 to dispose into freshwater would you agree that we shouldn't do
6 that? I mean, in -- not the definition of freshwater, that is
7 drinkable water is what I'm talking about.

8 MR. BUCKENDORF: The Commission hasn't proposed to change
9 its definition of drinking water. I think the Commission --
10 you know, it sets out a fairly prescriptive process that it
11 looks at from both a technical basis in ensuring the integrity
12 of the well and for allowing, you know, the annular disposal
13 of, you know, drilling fluids, muds and cuttings. You know, I
14 think, you know, the process is clear.

15 What I believe cannot be mandated by the federal
16 government is that the Commission first mandate that EPA look
17 at and grant a freshwater aquifer exemption for that activity.
18 The Commission if it chooses has, you know, an aquifer
19 exemption regulation. It does that itself for, you know, Class
20 II (d) activities.

21 I also do not believe that EPA can mandate that an aquifer
22 exemption in the first place be given. You know, it's simply
23 not a regulated activity under the Safe Drinking Water Act or
24 EPA's regulations.

25 CHAIR SEAMOUNT: Thank you.

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1 COMMISSIONER NORMAN: Mr. Buckendorf, in the information
2 previously filed that's in the record, attached to one of the
3 letters was the Memorandum of Agreement between the Alaska Oil
4 & Gas Conservation Commission and the Environmental Protection
5 Agency. And then additionally various follow-up correspondence
6 seeking clarification on the subject we're discussing, annular
7 injection versus the underground injection control regulations.

8 My question is I've read this and I've tried to find in
9 this exchange some indication that it was contemplated that
10 there might be as a result of annular disposal the placing of
11 drilling waste into freshwater. It does appear that you were
12 quite correct that annual disposal would not fall under the UIC
13 Program and that part is correct.

14 My question is whether though you could read that to --
15 implicit in that the understanding that a well would be so
16 configured that it would not allow waste to enter a freshwater
17 aquifer so that you could say yes, annular disposal of drilling
18 waste is permitted under one program and the Safe Drinking
19 Water Act, the UIC Program is a separate program, but at the
20 same time leave open the question about how annular disposal
21 into a freshwater aquifer, how the EPA might view that?

22 MR. BUCKENDORF: I don't believe they can view it at all.
23 Their -- when EPA looks at something they're bound by the
24 statutory structure and the regulatory structure under that
25 statute. The drilling of a well and the annular injection of

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1 muds and cuttings and associated brines (ph) with that are not
2 covered by the statutory, regulatory structure under which EPA
3 operates.

4 I mean, it's simply -- they may not like it, but they have
5 approved over 20 state programs that regulate this activity in
6 the exact same manner that the State of Alaska does.

7 COMMISSIONER NORMAN: The current regulations which I
8 think we should not lose sight of are still in effect right
9 now.....

10 MR. BUCKENDORF: That's correct.

11 COMMISSIONER NORMAN:until something is done, do
12 contain a process that would allow disposal -- annular disposal
13 into freshwater, but that is an exception and it is an
14 exception only if certain conditions are met. And among those
15 is public notice, opportunity for public hearing and so forth.
16 So one could make the argument that freshwater is protected by
17 the State of Alaska under.....

18 MR. BUCKENDORF: That's correct.

19 COMMISSIONER NORMAN:that particular regulation.

20 On the other hand, the EPA -- I'm trying just to get out
21 into the record -- I'm not advocating one way or the other now,
22 but eventually we're going to have to decide something, but on
23 the other hand one could make a case that if annular disposal
24 could be used as a pathway for injecting into freshwater then
25 there might be a way to circumvent the provisions of the Safe

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1 Drinking Water Act.

2 I don't know if you have any comment on those. I see
3 those as two provisions. I see them on the one hand to restate
4 it, that in our provision and I believe in the provisions of
5 some other states, there is oversight over where this goes and
6 the state regulatory agencies are already adequately watching
7 and regulating that to protect freshwater so there's no need to
8 bring in the Safe Drinking Water Act.

9 On the other hand, I think one might argue that, that
10 possibly undermines the provisions of the Safe Drinking Water
11 Act. Do you have any comment on that?

12 MR. BUCKENDORF: I think as Commissioner Norman mentioned
13 I think it comes down to a legal issue. I believe the State of
14 Alaska has the ability to protect its own resources. The State
15 owns the water resources. I believe the State has the ability
16 to look at that on a -- you know, an individual basis as is set
17 out on a case by case basis. This -- I mean, this is what the
18 Commission has been doing for, you know, twenty-some years now.

19 What we're really talking about is disposal into
20 freshwater. Freshwater is defined. It's into those areas that
21 are between 3,000 and 10,000 milligrams per liter of solids and
22 that's -- I mean, it's a broad and narrow band and I think it
23 comes down to the distinction of what's being approved. Is it
24 the long term disposal of activities, you know, in a Class II
25 (d) program long term. Anything can come into that well from

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1 anywhere for a great -- you know, for an extended period of
2 time or is it a one time activity in the drilling of a well.
3 It's a big difference.

4 COMMISSIONER NORMAN: Very well. Thank you.

5 Commissioner Seamount, do you have anything further of Mr.
6 Buckendorf?

7 CHAIR SEAMOUNT: Not at this time. Question, are we going
8 to take a recess after the next testifier?

9 COMMISSIONER NORMAN: I think we can -- yes. Yes, we
10 will.

11 CHAIR SEAMOUNT: Okay.

12 COMMISSIONER NORMAN: Um-hum, to see if -- Mr. Buckendorf,
13 if you would remain though and.....

14 MR. BUCKENDORF: Oh, yes.

15 COMMISSIONER NORMAN:in case we need to recall you.
16 And.....

17 MR. BUCKENDORF: Thank you.

18 COMMISSIONER NORMAN:lest I forget I'd remind you at
19 this time that if you are recalled you remain under Oath.

20 MR. BUCKENDORF: Okay, thank you.

21 COMMISSIONER NORMAL: I do have a question for Mr.
22 Engel.....

23 MR. ENGEL: Um-hum. (Affirmative)

24 COMMISSIONER NORMAN:before he's excused. Mr.
25 Engel, what if the Commission -- I'm looking now for just a

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1 practical effect on the industry, the burden, the constraints
2 on industry if the regulation as currently proposed with the
3 change the EPA has asked us to make, if that were adopted and
4 industry then were required to seek an aquifer exemption, can
5 you describe to me practically?

6 You touched -- you, of course, had this in the prior
7 testimony, but I would like to get back again to the notion of
8 whether it might be possible as a practical matter for industry
9 to locate a receiving zone that is not a freshwater aquifer and
10 just bypass the issue entirely?

11 MR. ENGEL: Well, I think if industry had to deal with the
12 EPA to receive an aquifer it could take quite a bit of time to
13 get that approval from the EPA. We just know from history it
14 just takes time to get those things approved and it could
15 equate to some delays in operations, especially in a remote
16 area where an operator has a certain time frame to operate.
17 For example, in a winter season with ice road construction, for
18 example. So there could be substantial impacts on industry if
19 the current proposal was adopted.

20 COMMISSIONER NORMAN: I -- in remote areas then where --
21 would the impact of this largely fall on exploration?

22 MR. ENGEL: I would say yes. I would say yes, but it also
23 may generate some time delays in our current infrastructure,
24 say, anywhere from operations as far as -- or east as NPRA
25 going -- pardon me, west NPRA and going east, it could also

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1 impact operations as well.

2 COMMISSIONER NORMAN: I think I know the answer that
3 you'll give to this, but I'm going to ask the question. Would
4 it be practical prior to drilling a well to identify a
5 subsurface receiving zone and seek EPA approval as part of the
6 preact- -- the activity leading up to the drilling?

7 MR. ENGEL: Yes, and I think most operators do plan far in
8 advance to take into account the regulatory requirements that
9 may be required to get approval, but that would just add more
10 time to the process and it could -- it could create some
11 delays. Some operations may be conducted, you know, maybe not
12 as timely as others and as far as planning goes you may have an
13 opportunity to drill a well and, therefore, start a process
14 where if you had planned, say, a year in advance you'd have
15 more time to do that.

16 So, I think, you're correct in your assessment that in
17 most cases an operator would have time, but there may be cases
18 where they wouldn't.

19 COMMISSIONER NORMAN: Is it also correct that -- I'm
20 referring again now primarily to exploration that -- where you
21 have an exploration well drilled there may not be knowledge of
22 a receiving aquifer until.....

23 MR. ENGEL: That's correct.

24 COMMISSIONER NORMAN:you've actually drilled the
25 well?

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1 MR. ENGEL: That's exactly correct.

2 COMMISSIONER NORMAN: Anything further, Mr. Seamount?

3 CHAIR SEAMOUNT: Yeah, as far as going through the pro- --
4 if you had to go through the EPA process and you started the
5 ball going before you even drilled the well, I'm wondering if
6 have you could have -- an approval from them contingent upon
7 looking at the information as soon as they drilled through the
8 section where you want to do a disposal, have you had any
9 experience with that?

10 I think we have done that here before, AOGCC. We say
11 okay, we see the logs and we'll give you the approval right
12 away, but.....

13 MR. BUCKENDORF: I don't think the federal government
14 works in a right a way manner.

15 CHAIR SEAMOUNT: I don't think so either.

16 MR. BUCKENDORF: And just procedurally I don't know how
17 that would work. You -- you know, for a remote exploration
18 well, you'd be looking at potentially a multi-season activity
19 to drill one well. You go so far, you get the data, then you
20 have a year, two years to get your approval, then -- you know,
21 we'd be back in the reserve pit business and nobody wants to
22 get back in the reserve pit business.

23 CHAIR SEAMOUNT: And reserve pits are still legal,
24 correct?

25 MR. BUCKENDORF: That is correct.

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1 COMMISSIONER NORMAN: I think then we have -- Ms.
2 Moriarty, of the AOGA panel, I don't believe we have any more
3 questions at this time, but appreciate it if you could remain
4 and we'll move this along.

5 We now have -- I believe it's Mr. Kanady that would
6 testify for ConocoPhillips Alaska?

7 MR. KANADY: Yeah.

8 COMMISSIONER NORMAN: Will raise your right hand, please.
9 (Oath Administered)

10 MR. KANADY: I do.

11 **RANDALL KANADY**

12 called as a witness on behalf of ConocoPhillips, testified as
13 follows on:

14 **DIRECT EXAMINATION**

15 COMMISSIONER NORMAN: Please start out by stating your
16 full name, your company affiliation, your position and a brief
17 statement about your training, experience, professional
18 credentials.

19 MR. KANADY: Okay. Well, good morning, Chairman Seamount
20 and Commissioner Norman. My name is Randall Kanady and this
21 morning I'm representing ConocoPhillips Alaska.

22 I'm a staff drilling engineer for ConocoPhillips in the
23 drilling and wells group and I hold an undergraduate degree in
24 Petroleum Engineering and a Masters in Environmental
25 Engineering and I have over 23 years experience in the oil and

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1 gas industry.

2 I am a licensed professional engineer in Petroleum
3 Engineering with the State of Alaska. And my assignments have
4 included production engineering, drilling and wells engineering
5 and various health, safety and environmental positions. And
6 I've had assignments in all the major operating areas in
7 Alaska.

8 COMMISSIONER NORMAN: Very well. Commissioner Seamount,
9 any questions?

10 CHAIR SEAMOUNT: No questions.

11 COMMISSIONER NORMAN: And please proceed with the
12 testimony.

13 MR. KANADY: Okay. Today I am providing folders for the
14 Commissioners that contain copies of the February 16th, 2010
15 ConocoPhillips Alaska submittal and this testimony. Conoc- --
16 well, here let me hand that out.

17 COMMISSIONER NORMAN: And, Mr. Kanady, this is something
18 that we have not previously received, is that correct?

19 MR. KANADY: Right.

20 COMMISSIONER NORMAN: All right, very well.

21 MR. KANADY: Yeah, ConocoPhillips, CPAI, submitted written
22 comments to AOGCC on February 8th, 2010 concerning the proposed
23 changes to annular disposal regulation 20 AAC 25.080. Today
24 CPAI is submitting amended comments that replace and supersede
25 the prior comments.

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1 COMMISSIONER NORMAN: Thank you. Mr. Kanady, I assume you
2 want these comments entered into the record so, perhaps, we'll
3 get that out of the way right now.

4 MR. KANADY; Yes, please.

5 COMMISSIONER NORMAN: And, you know, without objection,
6 the comments.....

7 CHAIR SEAMOUNT: No objection.

8 COMMISSIONER NORMAN: No objection. The comments of
9 ConocoPhillips dated February 16th comprised of a three page
10 cover letter and then a copy of testimony will be admitted to
11 the record. Please, proceed.

12 MR. KANADY: Thank you, Commissioner Norman. In addition
13 to myself, I would like to introduce Brian Noel, staff drilling
14 engineer. Raise your hand, Brian. And Barbara Fullmer, senior
15 counsel who are with me this morning and are available to help
16 address any questions regarding CPAI's submittal on annular
17 disposal. If we are unable to answer any questions today,
18 we'll find the information and provide a timely response.

19 CPAI appreciates the opportunity to submit comments on the
20 proposed changes by the AOGCC to the existing annular disposal
21 regulations, 20 AAC 25.080. CPAI believes that AOGCC's current
22 annular disposal program is an excellent program for managing
23 the disposal of drilling wastes. The program aids in
24 minimizing surface impact of drilling operations and protects
25 water resources. Through continued effective management of the

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1 program we will continue protecting both the surface
2 environment and underground freshwater drinking sources.

3 By following the current regulations, CPAI has safely
4 disposed of the majority of drilling waste from the Alpine
5 Field which is one of the primary areas using annular disposal
6 in the State of Alaska. The annular disposal program is
7 critical for the future of drilling in the Alpine area.

8 This program has been successful due to practices of 1)
9 adhering to a good surface casing shoe placement in competent
10 shale. 2) adhering to a good surface casing shoe -- 2), excuse
11 me, getting a good leakoff test below the surface casing shoe
12 and a leakoff test approximately 1,000 feet below the casing
13 shoe. 3) obtaining a good primary cement job in the surface
14 casing. And 4) monitoring injection pressures and volumes.

15 As a result of the annular disposal program, no surface
16 reserve pits were required for the Alpine development, which
17 has drilled upwards of 160 wells today.

18 A review of the CPAI specific comments on proposed -- on
19 the proposed annular injection regulations. The draft
20 regulation 20 AAC 25.080 Section (d) reads; drilling waste may
21 not be disposed of into any freshwater unless the operator
22 applies for and the U.S. Environmental Protection Agency grants
23 an aquifer exemption.

24 CPAI comments are; the EPA letter submitted in November,
25 2009 to the AOGCC implies that annular disposal of drilling mud

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1 is regulated under the Safe Water Drinking Act (sic) and that
2 an aquifer exemption must be obtained prior to annular
3 disposal. As discussed in the comments submitted by AOGA on
4 February 8th, 2010, this is not true.

5 Because of the confusion the EPA's letter creates, CPAI
6 requests that the AOGCC (1) clarify, on the public record, the
7 existing authority and practice for annular disposal of
8 drilling mud. (2) acknowledge the EPA exemption for disposal
9 of drilling mud under the Safe Water Drinking Act. And (3)
10 withdraw the proposed regulation 20 AAC 25.080 part (d).

11 AOGCC should not allow its record to continue to mislead
12 on such an important point and if regulation changes are to be
13 made, the regulation process should be restarted from the
14 beginning.

15 The draft regulation, 20 AAC 25.080 part (e)(12) reads; a
16 list of, description of and salinity determination for all
17 waters penetrated by the well; salinity determinations must be
18 based upon laboratory measurements or calculation methods
19 described in the, "Survey of Methods to Determine Total
20 Dissolved Solids Concentrations" and it goes on to state the
21 applicable EPA project number.

22 CPA (ph) comments are; historically, water salinity does
23 not vary greatly in a given interval across drill sites or
24 fields. CPAI believes that a drill site scale or sub-regional
25 description of salinity trends and data based on offset wells

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1 and other data sources should be acceptable for this
2 requirement. As worded, it appears that data, potentially
3 including additional logs, water samples, sidewall cores, et
4 cetera, could be required to be obtained from the proposed
5 disposal well after completion.

6 ConocoPhillips suggested wording on this, a list of,
7 descriptions of and salinity determination for all waters
8 penetrated by the well as determined from data acquired from
9 the well, existing nearby wells penetrating the same waters or
10 other data sources and then it goes on, salinity determinations
11 must be determined from the laboratory measurements or
12 calculation methods described in the "Survey of Methods to
13 Determine Total Dissolved Solids, et cetera.

14 Thank you for the opportunity to provide comments
15 regarding the proposed regulations governing annular injection.
16 I'm now available for any questions the Commissioners might
17 have.

18 COMMISSIONER NORMAN: Commissioner Seamount.

19 CHAIR SEAMOUNT: Mr. Kanady, what is your definition of an
20 offset or nearby well?

21 MR. KANADY: That, Commissioner Seamount, would refer to
22 on a drill site a given well on that drill site that would be
23 close to the.....

24 CHAIR SEAMOUNT: Okay.

25 MR. KANADY:particular well.

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1 CHAIR SEAMOUNT: What about wells in exploration areas,
2 how far away would a nearby well have to be or how close?

3 MR. KANADY: Well, on an exploration well we would
4 potentially have to determination the salinity in that well
5 first.

6 CHAIR SEAMOUNT: Okay. Through shallow logging?

7 MR. KANADY: Through shallow logging.

8 CHAIR SEAMOUNT: Okay, thank you.

9 COMMISSIONER NORMAN: Mr. Kanady, this is a very, very
10 minor point, but -- and I want to be sure, the draft regulation
11 that we're working from here under (e)(12) contains the date of
12 the standard to be applied, the KEDA Project No. 30-956 revised
13 as of September 1989 and adopted by reference. I don't know if
14 that was a refinement that was added and not included in the
15 publication. I see it's not in your proposal here and I just
16 wonder was that omitted purposely or is that we got out ahead
17 of industry in the date?

18 MR. KANADY: No, it was not omitted purposely. We could
19 verify the exact date of the EPA standard.

20 COMMISSIONER NORMAN: Okay. It's -- that's a minor point.
21 The concept of annular disposal is not threatened here. I
22 mean, the basic concept of annular disposal, so where we talk
23 about in your testimony that annular disposal being a very
24 important part of Alpine, et cetera, what is -- what has been
25 called into question by the United States Environmental

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1 Protection is our exception that says as part of annular
2 disposal that is allowed and administered by the AOGCC, you may
3 not dispose into a freshwater receiving zone.

4 So it's -- I'd ask you the same question I asked Mr.
5 Engel, is it practical to think in terms of being able to
6 operate and continue with annular disposal which is not
7 threatened by the suggestions of EPA and avoid having to apply
8 for aquifer exemptions by just staying aware from freshwater
9 receiving zones?

10 MR. KANADY: Commissioner Norman, yeah, I would hav- --
11 let me -- Brian, do you want to comment on that, Brian.

12 MR. NOEL: Alpine specifically?

13 MR. KANADY: Yeah.

14 COMMISSIONER NORMAN: If we are to have a comment, then we
15 would appreciate if you could come forward and identify
16 yourself for the record. If my question wasn't clear, either,
17 I could restate it. If you do understand then.....

18 MR. NOEL: If you would, please.

19 COMMISSIONER NORMAN: Yes. First, would you raise your
20 right hand?

21 (Oath Administered)

22 MR. NOEL: Yes, I do.

23 **BRIAN NOEL**

24 called as a witness on behalf of ConocoPhillips, testified as
25 follows on:

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COMMISSIONER NORMAN: And now, please, state your name and

MR. NOEL: My name is Brian Noel. I'm a staff drilling

COMMISSIONER NORMAN: I will restate the question.

So my question is, is it practical to continue to operate

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1 MR. NOEL: That would be field specific, but for Alpine
2 that would work under the current regulations. It's been
3 recognized there's no freshwater for the Alpine field.
4 Exploration it would be a concern as has already been
5 mentioned. Time is an issue out there when you're remote and
6 on the ice and would have to identify those zones and wait for
7 the exemption if need be.

8 COMMISSIONER NORMAN: And, kind of, a similar question
9 that was posed to Mr. Engel, is it possible to identify
10 receiving zones -- and I'm just asking based on your experience
11 as a practical matter, would it be possible to identify these
12 receiving zones in time to make application to the EPA before
13 commencement of drilling so that there wouldn't be any delay?

14 MR. NOEL: That would be difficult to do 'cause you
15 usually rely on, you know, logs and data to confirm especially
16 remote exploration where you're unsure of the fluids in the
17 different sands.

18 COMMISSIONER NORMAN: So what I'm hearing then that the
19 practical implications will fall most heavily upon exploration
20 in areas and in as to development areas where the information
21 is better known and, perhaps, there's -- well, that -- that
22 it's less of a concern, is that an accurate statement or not?

23 MR. NOEL: For the majority, yes.

24 COMMISSIONER NORMAN: We'll talk about Alpine first. How
25 -- I mean, is that an accurate statement as to Alpine?

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1 MR. NOEL: Correct, as long as the -- the previous finding
2 for the -- what's in the subsurface zones are honored or
3 grandfathered.

4 COMMISSIONER NORMAN: Okay. Meaning there is an aquifer
5 exemption in place?

6 MR. NOEL: Right, through the Class I disposal well
7 process, EPA did recognize that there were no underground
8 sources of drinking water in the Alpine fields.

9 COMMISSIONER NORMAN: Okay. Commissioner Seamount.

10 CHAIR SEAMOUNT: No other questions.

11 COMMISSIONER NORMAN: Okay, well, thank you very much for
12 providing that.

13 And, Mr. Kanady, we don't have -- I don't have any more
14 questions. I do want to, on behalf of the Commission and if
15 it's not presumptuous, the entire State of Alaska, just comment
16 upon the loss of a wonderful, wonderful gentleman and member of
17 our community, Mr. Jim Bowles. And he was -- he's someone that
18 will truly be missed by all Alaskans and I think we would be
19 remiss if we on this day didn't note that.

20 MR. KANADY: Yes, he will be missed. Thank you.

21 COMMISSIONER NORMAN: Are there any other persons present
22 who would wish to offer testimony? And we would, I will note
23 -- I will say what Commissioner Foerster would say were she
24 here, she would say, we would be delighted if a representative
25 of EPA would come forward, so that's in the record that we've

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1 extended that invitation. The Chair, however, sees no
2 representative of the EPA asking to be recognized and so we
3 will leave it there, but the invitation has been extended.

4 We've been at this about an hour now, so we will take a
5 break and during that period the Commission will see if there
6 are any remaining questions and then decide on a plan going
7 forward.

8 So let's take -- let's take a 15 minute break because
9 there are several issues here that do need to be discussed and
10 fleshed out and, I think, in the interest of time then that
11 will save us all. When we come back on the record we can be
12 very concise with the remaining questions. So we'll adjourn at
13 10 minutes -- or recess at 10 minutes after and reconvene in --
14 at 10:25.

15 (Off record - 10:12 a.m.)

16 (On record - 10:25 a.m.)

17 COMMISSIONER NORMAN: Back on the record, please. The
18 time is approximately 10:28 a.m. And the Commissioners have
19 taken a brief recess to determine whether we have any further
20 questions of the witnesses. We have concluded that we're most
21 appreciative for the testimony provided here and that it is
22 helpful. Both the Alaska Oil and Gas Association and
23 ConocoPhillips have done a good job of setting forth their
24 position.

25 To go forward the Commission at this time has no further

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1 questions of any of the witnesses here. The Commission will be
2 proposing one or more questions to EPA which they have
3 indicated that they would respond to. And if any of the
4 parties here have things that they would like to bring to the
5 Commission as we frame our questions, we'd be happy to hear
6 from you, but we would want to hear from you by the close of
7 business at the end of this week so that we can get our
8 questions to EPA.

9 Concurrently, of course, parties themselves are always
10 free to contact the United States Environmental Protection
11 Agency directly and so we don't want to discourage you from
12 doing that and want to make sure that everyone is aware of
13 that.

14 We will upon -- we will leave the record open and if
15 there's anything more that you would like to place into the
16 record, we'll leave the record open until such time as we re-
17 notice this matter again and we will re-notice it one more time
18 following receipt of comments from the EPA.

19 We will also, if we do receive any additional matters from
20 any parties, provide copies to the EPA to help inform their
21 response and conversely upon receipt of response to our letter
22 from EPA, we will provide a copy to the parties who have been
23 here today as well as making clear that it's available. We
24 will then re-notice for a hearing and move this forward to
25 conclusion.

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1 Commissioner Seamount, do you have anything more?
2 CHAIR SEAMOUNT: Nothing, nothing more, Commissioner
3 Norman.
4 COMMISSIONER NORMAN: Then I will ask if there are any
5 other persons, members of the public or any other interested
6 parties who may wish to address the Commission before we
7 adjourn?
8 Okay. And we will stand adjourned.
9 (Recessed - 10:31 a.m.)

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C E R T I F I C A T E

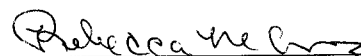
UNITED STATES OF AMERICA)
) ss.
STATE OF ALASKA)

I, Rebecca Nelms, Notary Public in and for the State of Alaska, residing at Anchorage, Alaska, and Reporter for R & R Court Reporters, Inc., do hereby certify:

THAT the annexed and foregoing PUBLIC HEARING regarding Annular Disposal Regulations was taken by Suzan Olson on the 16th day of February 2010, commencing at the hour of 9:00 o'clock a.m. at the State of Alaska Oil and Gas Conservation Commission, 333 West 7th Avenue in Anchorage, Alaska,

THAT this Transcript, as heretofore annexed, is a true and correct transcription of the proceedings taken by Suzan Olson and transcribed by same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 24th day of February, 2010.



Notary Public in and for Alaska
My Commission Expires: 10/10/10

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[illegible]



J. Stephen de Albuquerque
Manager
Health, Safety & Environment

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j.s.dealbuquerque@conocophillips.com

February 16, 2010

Mr. Daniel T. Seamount, Jr., Chairman
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, Alaska 99501-3539

**Re: Amended Comments of ConocoPhillips Alaska, Inc.
Proposed Regulation Changes to 20 AAC 25.080**

Dear Chairman Seamount:

ConocoPhillips Alaska, Inc. (CPAI) submits these amended comments on the changes proposed by the Alaska Oil and Gas Conservation Commission ("AOGCC") to the existing annular disposal regulation, 20 AAC 25.080. CPAI previously submitted comments on February 8, 2010, and these comments submitted at the public hearing on February 16, 2010, replace and supersede the comments dated February 8, 2010.

CPAI believes that AOGCC's current annular disposal program is a model program for the disposal of drilling wastes. This program already aids in minimizing surface impact of drilling operations, and, with continued effective management of the program, the industry will be able to continue to safely inject drilling waste while protecting both the surface environment and underground freshwater drinking sources.

CPAI recognizes that the currently proposed draft regulations reflect consideration of a significant number of the concerns noted in CPAI's comments submitted on June 30, 2009. After reviewing the EPA comments submitted in November 2009, the current draft regulations issued on January 16, 2010, and comments submitted by the Alaska Oil and Gas Association on February 8, 2010, CPAI submits the following comments.

CPAI has successfully used the current annular disposal program to safely dispose of the majority of drilling waste from the Colville River Unit (CRU). This program has been successful due to practices of 1) adhering to good surface casing shoe placement in competent shale; 2) getting a good leakoff test below the surface casing shoe and a pump in test ~1,000' below the casing shoe; 3) obtaining good primary cement jobs in the surface casing and 4) monitoring

injection pressures and volumes. As a result of the annular disposal program, no surface reserve pits were required for the CRU development (158 wells to date). CPAI recognizes that not all wells are good annular injection candidates if they don't meet the key criteria listed above.

SPECIFIC COMMENTS

DRAFT REGULATION 20 AAC 25.080 (d)

(d) Drilling waste may not be disposed of into any freshwater unless the operator applies for and the United States Environmental Protection Agency grants an aquifer exemption.

The EPA comment letter submitted in November 2009 is misleading in that it would have the reader believe that annular disposal of drilling mud is regulated under the Safe Drinking Water Act, 42 USC 300(e) *et seq.* ("SDWA") and that an aquifer exemption must be obtained prior to such annular disposal. As discussed in the comments submitted by the AOGA on February 8, 2010, that is not correct. CPAI requests that the AOGCC (1) clarify, on the public record, the existing authority and practice for annular disposal of drilling mud; (2) acknowledge that an aquifer exemption under the SDWA is not required for disposal of drilling mud; and (3) withdraw the proposed regulation 20 AAC 25.080(d). AOGCC should not allow its record to continue to mislead on such an important point and, if regulatory changes are to be made, the regulation process should be restarted from the beginning.

DRAFT REGULATION 20 AAC 25.080 (e)(12)

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

Historically, water salinity does not vary greatly in a given interval across drillsites or fields. CPAI believes that a drillsite scale or sub-regional description of salinity trends and data based on offset wells and other data sources should be accepted for this requirement. As worded, it appears that data could be required to be obtained from the proposed disposal well after completion (additional logs, water sampling, sidewall coring, etc.).

SUGGESTED WORDING

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well as determined from data acquired from the well, existing nearby wells penetrating the same waters or other data sources; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

We would be glad to discuss further any of the above comments with AOGCC staff.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Stephen de Albuquerque', written over the printed name.

J. Stephen de Albuquerque
Health, Safety & Environment Manager

**Alaska Oil & Gas Conservation Committee
Testimony on Proposed Changes to 20 AAC 25.080 Annular
Disposal Regulations
Public Hearing February 16, 2010**

**Randall Kanady, Staff Drilling Engineer ConocoPhillips
Alaska**

Good morning Chairman Seamount and Commissioners Foerster and Norman. My name is Randall Kanady. This morning I am representing ConocoPhillips Alaska (CPAI). I am the Staff Drilling Engineer for ConocoPhillips in the Drilling and Wells group. I hold an undergraduate degree in Petroleum Engineering and a master degree in Environmental Engineering and have over 23 years experience in the oil & gas industry. My assignments have included production engineering, drilling and wells engineering and various Health, Safety and Environmental positions. I have had assignments in all the major operating areas in Alaska.

Today CPAI has provided folders for the Commission that contain copies of the February 16, 2010 CPAI submittal and this testimony.

CPAI submitted written comments to the AOGCC on February 8, 2010 concerning the proposed changes to the Annular Disposal regulation 20 AAC 25.080. Today CPAI is submitting amended comments that replace and supersede the prior comments.

In addition to myself, I would like to introduce Brian Noel Staff Drilling Engineer, Wayne Campaign Staff Geologist and Barbara Fullmer Senior Counsel who are with me this morning and are available to help address

any questions regarding CPAI's submittal on annular disposal. If we are unable to answer any questions today, we will find the information and provide a timely response.

CPAI appreciates the opportunity to submit comments on the changes proposed by the AOGCC to the existing annular disposal regulation, 20 AAC 25.080. CPAI believes that AOGCC's current annular disposal program is an excellent program for managing the disposal of drilling wastes. The program aids in minimizing surface impact of drilling operations and protects water resources. Through continued effective management of the program we will continue protecting both the surface environment and underground freshwater drinking sources.

By following the current regulations, CPAI has safely dispose of the majority of drilling waste from the Alpine Field , which is one of the primary areas using annular disposal in the State of Alaska. The annular disposal program is critical for future drilling in the Alpine area. This program has been successful due to practices of: 1) adhering to good surface casing shoe placement in competent shale; 2) getting a good leakoff test (LOT) below the surface casing shoe and a LOT ~1,000' below the casing shoe; 3) obtaining a good primary cement job in the surface casing, and; 4) monitoring injection pressures and volumes. As a result of the annular disposal program, no surface reserve pits were required for the Alpine development, which has drilled 158 wells to date.

Review of CPAI specific comments on proposed Annular Disposal regulation changes

THE DRAFT REGULATION 20 AAC 25.080 (d) reads:

(d) Drilling waste may not be disposed of into any freshwater unless the operator applies for and the United States Environmental Protection Agency grants an aquifer exemption.

CPAI comments are:

The EPA letter submitted in November 2009 to the AOGCC implies that annular disposal of drilling mud is regulated under the Safe Drinking Water Act and that an aquifer exemption must be obtained prior to such annular disposal. As discussed in the comments submitted by the AOGA on February 8, 2010, that is not true. Because of the confusion the EPA's letter creates, CPAI requests that the AOGCC (1) clarify, on the public record, the existing authority and practice for annular disposal of drilling mud; (2) acknowledge the EPA exemption for disposal of drilling mud under the Safe Drinking Water Act; and (3) withdraw the proposed regulation 20 AAC 25.080(d). AOGCC should not allow its record to continue to mislead on such an important point and, if regulation changes are to be made, the regulation process should be restarted from the beginning.

THE DRAFT REGULATION 20 AAC 25.080 (e)(12) reads:

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

CPAI comments are:

Historically, water salinity does not vary greatly in a given interval across drillsites or fields. CPAI believes that a drillsite scale or sub-regional description of salinity trends and data based on offset wells and other data sources should be accepted for this requirement. As worded, it appears that data, potentially including additional logs, water sampling, sidewall coring ect., could be required to be obtained from the proposed disposal well after completion

CPAI SUGGESTED WORDING

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well as determined from data acquired from the well, existing nearby wells penetrating the same waters or other data sources; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

Thank you for the opportunity to provide comments regarding the proposed regulations governing annular injection.

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907) 272-1481 Fax: (907) 279-8114
Email: moriarty@aoga.org
Kara Moriarty, Deputy Director

February 8, 2010

Commissioner Dan Seamount, Chair
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, AK 99501

RE: AOGA Comments on Annular Disposal of
Drilling Waste [20 AAC 25.080]

Dear Commissioner Seamount:

The 14 members of the Alaska Oil and Gas Association (AOGA) account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in the state. We appreciated the opportunity to present testimony on October 15, 2009 and for the Commission's actions during that hearing to postpone any decision on these very important regulations. In both our written comments and the public testimony at the hearing, AOGA voiced its concern that the changes to 20 AAC 25.080 were being made without an adequate public record and significantly, without a stated purpose of why the current regulations, which have been largely unchanged since 1996, needed to be changed. We still hold that opinion and request the AOGCC reconsider its entire rulemaking as explained further in the analysis below.

Overview of the Issue

The federal Safe Drinking Water Act (SDWA) was written in 1974 and extensively amended in 1986. Among other things, the SDWA and the U.S. Environmental Protection Agency's (EPA's) regulations developed under it, regulate the underground injection control (UIC) of wastes. States are allowed to assume primacy of certain UIC activities.

The heart of the UIC program is its classification of UIC disposal wells into five classes, each with its own regulatory scheme. The state of Alaska, through the AOGCC, has primacy for Class II wells – wells which inject fluid for enhanced oil and gas recovery (EOR) and for the disposal of non hazardous wastes associated with the oil and gas industry.

The SDWA does not regulate the drilling of oil and gas wells. In the years following the 1986 amendments to the Act, EPA (at the same time it was preparing its December 1987 Report to Congress on the Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy) at the request of the Alaska oil and gas industry

and the AOGCC determined that the SDWA and EPA's regulations under it did not regulate the annular injection of oil and gas wastes directly associated with the drilling of an oil and gas well. This decision was extremely important to the entire oil and gas industry and is set out in a November 24, 1987 policy memo written from the EPA Office of Water to EPA Region 10 where EPA stated "that the disposal of drilling mud whether in a dry hole or in the annulus of a producing well is not covered by the UIC regulations." The history of that memo and how it was arrived at, the direct correspondence to the AOGCC from EPA, and the corresponding changes that were made to Paragraph 10 of the Memorandum of Agreement (MOA) between the AOGCC and EPA is described in greater detail in our October 9, 2009 comments. A January 8, 1998 letter from EPA Region 10 to the AOGCC then reinforced this decision and stated that the memorandum made it clear that injection of drilling mud into the annulus was not covered by the UIC program and "reinforces the Alaska Oil and Gas Conservation Commission position on the subject." The AOGCC has held firm with this determination since that time, until this recent rulemaking, where it appears to have been inadvertently undermined.

AOGCC Regulations

AOGCC regulations mirror the EPA determination on annular disposal and form the foundation for the distinction between: (1) annular injection activities regulated under 20 AAC 25.080; and (2) the underground disposal of oil field wastes in 20 AAC 25.252 and any associated requests for a freshwater aquifer exemption under 20 AAC 25.440. Sections 25.252 and 25.440, along with the MOA, form the backbone of Alaska's approved Class II UIC disposal program. Importantly, 20 AAC 25.252(k) reinforces the EPA determination where it states that "the annular disposal of drilling wastes under 20 AAC 25.080 is an operation incidental to the drilling of a well and is not a disposal operation subject to this section."

To obtain approval of Class II UIC disposal activities which may affect fresh water under section 25.252 the SDWA and EPA's regulations often require the AOGCC to issue an aquifer exemption under 25.440 in order for the regulated disposal activity to occur. However, because annular injection is not a regulated disposal activity under the SDWA, neither the SDWA nor EPA regulations require the issuance of an aquifer exemption prior to AOGCC authorization of an annular disposal activity. This distinction is extremely important and has been lost in this rulemaking.

The Commission's Rulemaking

On May 21, 2009, the AOGCC proposed a revision to 25.080. However, as the Commission has done in other recent rulemakings instead of using strikeout type amendatory language to show the true changes that were being made, the Commission stated it was proposing to repeal the old regulations and readopt all new regulations.

Importantly, the Commission's oversight process for the annular disposal of drilling waste that could impact freshwater -- the most controversial issue being addressed in this rulemaking and a major subject of this hearing -- was not being substantively changed at all. However, you cannot reach that conclusion without a detailed comparison against the current regulations.

AOGCC regulations at 25.080(e)(1) state "In addition, an authorization to dispose of drilling waste under this section is subject to the following conditions:

- (1) drilling waste may not be disposed of into freshwater, unless
 - (A) freshwater is identified in the Application for Sundry Approval; and
 - (B) commission finds that the freshwater has a total dissolved solids content of more than 3,000 mg/l, and is not reasonably expected to supply a public water system; the commission will, in its discretion, provide 15 days notice and the opportunity for a public hearing in accordance with 20 AAC 25.540 before making that finding;"

In its May 21, 2009 rulemaking the Commission did not propose to change this provision. Instead it was reorganized and rewritten as a standalone subsection at 25.080(d). As such, AOGA and its member companies did not comment on that proposal. For that reason, we were extremely surprised by the September 1, 2009 proposal and the Commission's abrogation of its oversight authority by proposing a section of regulation that would have prohibited annular disposal of drilling waste into freshwater unless the operator applied for and EPA granted an aquifer exemption. Furthermore, nothing in the administrative record explained why the Commission made this change, a fact the Commission acknowledged at the hearing itself.

After its October hearing, the AOGCC asked EPA for written comments to supplement the administrative record in this rulemaking proceeding. The November 20, 2009 letter from EPA states that it did not believe the Commission's May 2009 regulations followed federal legal requirements. We disagree and believe the agency misinterpreted what was being proposed. In Paragraph two at the third sentence EPA states "20 AAC 25.080(d) ... would authorize the AOGCC to use its discretion in avoiding a public notice period and an opportunity for a hearing *before granting an aquifer exemption.*" The letter then states that EPA informed the AOGCC that the May 21, 2009 rule change would contravene federal statutory and regulatory provisions relating to aquifer exemptions and be considered a major modification to the state's underground injection control program. This is incorrect.

The process the Commission has followed for two decades that is set out in 25.080(e) for annular injection is well grounded in law and *is not* a decision by the Commission to grant a freshwater aquifer exemption. It was never intended to be because the SDWA does not regulate the annular disposal of drilling waste. In the fall of 1987, EPA described the practice of annular disposal in its Report to Congress and, when asked by the AOGCC, told the Commission that the SDWA and EPA's UIC regulations did not cover annular injection activities.

Instead, the disposal activities the AOGCC does oversee that are regulated by the SDWA and EPA's regulations are set out in the 25.252 disposal regulations and the process for securing a freshwater aquifer exemption under 25.252 is set out in 20 AAC 25.440. Importantly, these two sets of regulations remain unchanged.

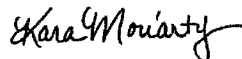
Neither EPA nor the AOGCC have shown why this drastic and substantial change is required.

First, as stated above, annular pumping is not an activity regulated by EPA under the Safe Drinking Water Act or its implementing regulations. As such, EPA cannot require the AOGCC to grant an aquifer exemption under its annular injection regulations. Second, the AOGCC is not changing its UIC Class II disposal regulations or its freshwater aquifer exemption regulations. Third, even if an aquifer exemption was required that process is set out in 25.440. The letter from EPA says the current process the AOGCC uses works. Requiring an aquifer exemption under the annular disposal program will cause timing delays that would severely impact an individual company's plans and work activities. Delegating it to EPA would cause even further delays and would create a process that conflicts with existing AOGCC regulations. Finally, there could be serious implications for exploration activities, especially in remote locations of Alaska, such as the National Petroleum Reserve-Alaska, the Foothills region of the North Slope and the west side of Cook Inlet. Unlike other parts of the country, these drilling prospects are located in very isolated regions, with no infrastructure, roads, or permanent facilities. Mandating an aquifer exemption in these areas under the annular disposal regulations is inconsistent with state and federal law and policy.

In summary, AOGA members appreciate the consideration given to our previous comments. We do not however believe the administrative record supports the change to 25.080 that were proposed in September, and re-proposed in January. We therefore recommend one of two courses of action. First, the Commission should revert to its original proposal at 25.080(d) from May of 2009 that keeps the same regulatory process in place that has existed since at least 1996. As an alternative, the AOGCC could consider another rule making approach to amend (not repeal and readopt) the current regulations. This approach would allow the AOGCC to highlight proposed changes and give the public the opportunity to clearly follow and understand true regulatory changes that are being proposed. Whatever course of action is taken, we strongly recommend the AOGCC retain the distinction between Class II waste disposal activities, which are regulated by the SDWA and EPA regulations, and annular injection activities, which are not, and retain the current language in 20 AAC 25.080 (e)(1).

Again, thank you for soliciting public comment on these proposed regulations. At the February 16, 2010 hearing we will have AOGA member company technical and legal representatives available to address any questions related to this issue.

Sincerely,



KARA MORIARTY
Deputy Director

Cc: Thor Cutler, EPA, UIC Division

RE-NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE
ALASKA OIL AND GAS CONSERVATION COMMISSION

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080). On May 22, 2009, AOGCC published a notice of proposed changes to 20 AAC 25.080. After substantive changes to the 20 AAC 25.080 AOGCC re-noticed them on September 3, 2009.

On October 15, 2009 the AOGCC convened a public hearing on the revision of 20 AAC 25.080. Based upon commentary at the hearing, the AOGCC adjourned the hearing to allow written input from the Environmental Protection Agency (EPA) regarding the revisions to 20 AAC 25.080. By correspondence dated November 20, 2009 the EPA provided its position regarding the amendments to 20 AAC 25.080.

The AOGCC now re-notices the changes to 20 AAC 25.080 as follows:

1. modify the aquifer exemption for the disposal of drilling waste to require that the operator apply for and the U.S. EPA grant the exemption;
2. modify the information that must be submitted with an annular disposal application;
3. modify the limitations and conditions applicable to annular disposal;
4. add a provision for requesting variances and waivers; and
5. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

Written comments on the proposed regulation changes, including the potential costs of compliance, may be submitted to AOGCC at 333 West 7th Ave., Suite 100, Anchorage, AK 99501. The comments must be received by 5:00 p.m. on February 8, 2010.

Written and/or oral comments may be submitted at a hearing to be held on February 16, 2010 at 333 West 7th Ave., Suite 100, Anchorage, AK. The hearing will be held from 9:00 a.m. to 11:00 a.m. and might be extended to accommodate those present before 9:30 a.m. who did not have an opportunity to comment.

If, because of a disability, a special accommodation is needed to participate in this process, please contact the Commission's Special Assistant, Jody Colombie, at 907-793-1221; 333 West 7th Ave., Suite 100, Anchorage, AK 99501; or jody.colombie@alaska.gov. Ms. Colombie must be contacted by February 11, 2010, at 5:00 p.m. to ensure that necessary accommodations can be provided.

The proposed regulation changes are available at www.aogcc.alaska.gov or by contacting Ms. Colombie at the phone number, physical address, or e-mail address above.


After the public comment period ends, AOGCC will adopt, without notice, these or other provisions dealing with the same subjects or decide to take no action. The language of the proposed and final regulations may be different. YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED. Written comments are subject to public inspection.

Statutory Authority: AS 31.05.030; AS 31.05.040; AS 31.05.095

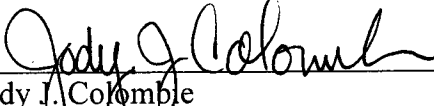
Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030; AS 31.05.040; AS 31.05.095

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 1/6/10


Daniel T. Seamount, Jr.
Chair

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Oil and Gas Conservation Commission.
2. General subject of regulations: annular disposal of drilling waste.
3. Citation of regulations: 20 AAC 25.080.
4. Reason for the proposed action: update the annular disposal of drilling waste regulations.
5. Program category and BRU affected: Alaska Oil and Gas Conservation Commission.
6. Cost of implementation to the state agency: zero.
7. The name of the contact person for the regulations:
Name: Daniel T. Seamount, Jr.
Title: Chair
Address: 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501
Telephone: (907) 793-1221
E-mail: jody.colombie@alaska.gov
8. The origin of the proposed action: agency staff.
9. Date: January 7, 2010.
10. Prepared by: 
Jody J. Colombe
Alaska Oil and Gas Conservation Commission
(907) 793-1221

(3) damage a producing or potentially producing formation or impair the recovery of oil or gas.

(d) Drilling waste may not be disposed of into any freshwater unless the operator applies for and the United States Environmental Protection Agency grants an aquifer exemption.

(e) An application for authorization under this section will not be complete unless it includes or references (*i.e.*, if the information is on file with the commission) the following information:

(1) a schematic of the well proposed to receive the drilling waste;

(2) lists and plats identifying

(A) all wells and well branches that penetrate the disposal interval within a one-quarter mile radius of the surface casing shoe of the disposal annulus; the well paths of all wells and well branches must be shown on the plat, and the planar distances from all wells and well branches to the surface casing shoe of the disposal annulus must be provided;

(B) all publicly recorded water wells within a one-mile radius of the surface location of the well that would receive the drilling waste; and

(C) all operators and surface owners within a one-quarter mile radius of the surface casing shoe of the disposal annulus;

(3) the measured and true vertical depths at the base of any freshwater aquifer(s) and permafrost;

- (4) an assessment of shallow seismic information in the area of the receiving well, where available, with an interpretation of faults and other anomalies;
- (5) a stratigraphic description of and off-set well log(s) across the disposal interval showing the drilling waste receiving and confining intervals;
- (6) a description of the drilling waste, including its composition and well source, and the identification of any waste that falls within (i)(3) of this section;
- (7) the estimated density of the drilling waste slurry;
- (8) the anticipated maximum pressure at the surface and at the surface casing shoe during the disposal operations; the calculations showing how the surface casing shoe pressure value was determined must be provided;
- (9) information demonstrating that the inner and outer casing strings have sufficient collapse and burst strength to withstand the maximum anticipated pressure of disposal operations;
- (10) information demonstrating that the surface casing shoe
 - (A) is set below the base of permafrost and any freshwater; and
 - (B) is adequately cemented to provide isolation; the information required under this sub-section must include
 - (i) casing and cementing records for both casings forming the annulus;

- (ii) casing and cementing records for all wells that penetrate the disposal interval within a one-quarter mile radius of the surface casing shoe;
 - (iii) the results of a leak-off test conducted below the surface casing shoe, or, if leak-off is not attained, the results of a formation integrity test conducted below the surface casing shoe;
 - (iv) the results of an injectivity test conducted below the surface casing shoe; and
 - (v) if required by the commission, a cement quality or other log(s);
- (11) a list and description of any uncemented significant hydrocarbon zones within the disposal annulus;
- (12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;
- (13) if drilling waste was previously disposed of through the annular space of the well, the dates of the disposal operations, the types and volumes of each type of waste disposed of, and the sources of the waste; and
- (14) additional information and analyses required by the commission.
- (f) Annular disposal operations must comply with the following conditions:

- (1) the downhole disposal pressure may not at any time exceed the downhole pressure measured during the formation leak-off test that was conducted below the surface casing shoe unless the commission approves a higher pressure;
- (2) the operator must continuously monitor the following during disposal operations: the types and volumes of each type of waste disposed, disposal rates, surface pressures of the receiving well's disposal annulus, and, as specified by the commission, surface pressures of the annuli of all wells within a one-quarter mile radius of the surface casing shoe of the receiving well and surface pressures of the receiving well's outer annuli and tubing;
- (3) the operator shall immediately cease disposal, notify the commission within 24 hours, and take all appropriate remedial action, including but not limited to any action ordered by the commission, if
 - (A) there is evidence of a breach of the disposal annulus or migration of fluids from the disposal interval;
 - (B) disposal operations pose a threat to well integrity, health or safety, hydrocarbon-bearing zones, correlative rights, or the environment, including freshwater; or
 - (C) there is any unauthorized disposal;
- (4) the operator shall file with the commission an incident report within 10 working days after any incident requiring action under (f)(3) of this section; the incident report shall include a description of any actions taken and the effects and results of those actions; and

- (5) the operator shall comply with any other conditions the commission determines are important to ensure compliance with any limitations or requirements of this section.

(g) The operator shall

- (1) not later than 30 days after each calendar quarter during an authorized disposal operation period, file with the commission a Report of Annular Disposal (Form 10-423); and
- (2) file additional information and analyses as required by the commission.

- (h) Upon written request of the operator, the commission may approve a variance from a requirement of this section if the variance provides at least an equally effective means of complying with the requirement, or a waiver of a requirement of this section if the waiver will not promote waste, is based on sound engineering and geoscience principles, will not jeopardize the ultimate recovery of hydrocarbons, will not jeopardize correlative rights, and will not result in an increased risk to health, safety, or the environment, including freshwater.

- (i) In this section, "drilling waste" means the following substances, unless identified as a "hazardous waste" in 40 C.F.R. 261:

- (1) drilling mud, drilling cuttings, reserve pit fluids, cement-contaminated drilling mud, completion fluids, formation fluids associated with the act of drilling a well permitted under 20 AAC 25.005, and any added water needed to facilitate the pumping of drilling mud or drilling cuttings;
- (2) drill rig wash fluids and drill rig domestic waste water; and

- (3) other substances that the commission determines, upon the operator's written request, are wastes associated with the act of drilling a well permitted under 20 AAC 25.005.

(Eff. 9/22/96, Register 129; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030 AS 31.05.040

20 AAC 25.080 is repealed and readopted to read:

20 AAC 25.080. Annular disposal of drilling waste

(a) Drilling waste, as defined in (i) of this section, may not be disposed through the annular space of a well unless authorized by the commission under this section. The operator of a well for which a permit to drill has been issued by the commission may request authorization to dispose of drilling waste through the well's annular space by filing an Annular Disposal Application (Form 10-403AD), including all the information required under (e) of this section.

(b) Annular disposal of drilling waste will be limited to

- (1) 35,000 barrels through the annular space of a single well;
- (2) wastes generated by drilling operations on the same drill pad or platform as the disposal annulus;
- (3) 90 days of actual disposal within a one-year approval period; and
- (4) a one-year period beginning on the date of approval of the Annular Disposal Application.

(c) Drilling waste must not

- (1) migrate from the approved disposal interval;
- (2) impair the mechanical integrity of any well; or

#6

Colombie, Jody J (DOA)

From: Foerster, Catherine P (DOA)
Sent: Wednesday, February 10, 2010 9:56 AM
To: Colombie, Jody J (DOA)
Subject: FW: annular disposal hearing

Please enter this into the record.

From: Foerster, Catherine P (DOA)
Sent: Wednesday, February 10, 2010 9:41 AM
To: 'rockwell.theodore@epa.gov'
Cc: Seamount, Dan T (DOA); Norman, John K (DOA)
Subject: RE: annular disposal hearing

Sorry, I left out one little detail: The time for the hearing is 9am.

From: Foerster, Catherine P (DOA)
Sent: Wednesday, February 10, 2010 9:38 AM
To: 'rockwell.theodore@epa.gov'
Cc: Seamount, Dan T (DOA); Norman, John K (DOA)
Subject: annular disposal hearing

Ted,
AOGCC will be having a hearing on proposed annular disposal regulations on Tuesday February 16 and we need to have someone from EPA in attendance who can answer any questions that we might have. I suggest Thor, his supervisor, or a Region 10 attorney. I'll follow-up this message with a phone call to be sure you get it.
Thanks.
Cathy



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

RECEIVED

Reply To: OCE-127

NOV 20 2009

NOV 23 2009

Alaska Oil & Gas Cons. Commission
Anchorage

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dan Seamount, Chairman
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue, Suite 100
Anchorage, Alaska 99501

Re: 28 October 2009 letter from Thomas A. Ballantine, Assistant Attorney General regarding
Amendment to Annular Disposal Regulations: Notice of Proposed Changes to Title 20
Alaska Administrative Code 25.080 (20 AAC 25.080) dated September 1, 2009

Dear Mr. Seamount:

On October 28, 2009, the Alaska Oil & Gas Conservation Commission (AOGCC) requested the U.S. Environmental Protection Agency, Region 10 (EPA), provide comment on the Commission's public hearing regarding amendments to its annular disposal regulations. Specifically, the AOGCC asked for written comments supporting the changes EPA suggested to the proposed regulation.

On May 21, 2009, the AOGCC proposed changes to 20 AAC 25.080. Those changes included a provision that disposal activities would be allowed into "any freshwater aquifer with a total dissolved solids content of less than 3000 mg/l[.]" *See* 20 AAC 25.080(e)(10)(A) (May 21, 2009 proposed rule). Furthermore, the proposed rule would authorize the AOGCC, on a case-by-case basis, to grant freshwater aquifers exemptions. *See* 20 AAC 25.080(d) (May 21, 2009 proposed rule). It would also authorize the AOGCC to use its discretion in avoiding public notice and an opportunity for a hearing before granting an aquifer exemption. No section of the May 21, 2009, proposed rule ensured that EPA would be informed of an aquifer exemption or be allowed the opportunity to review a decision to exempt an aquifer.

The Safe Drinking Water Act (SDWA) protects underground sources of drinking water (USDW) from contamination due to injection activities. However, federal regulations also set out the procedures and criteria allowing for aquifer exemptions, where injection into an underground source of drinking water is authorized. *See* 40 C.F.R. §§ 144.7, 146.4. Those regulations require, among other things, that proposed aquifer exemptions are subject to public notice with an opportunity for a public hearing, and provide EPA the opportunity to disapprove the exemption. Furthermore, the 1991 "Memorandum of Agreement between the Alaska Oil and Gas Conservation Commission and the U.S. Environmental Protection Agency, Region 10" reiterates the requirement for public participation and EPA oversight in granting aquifer exemptions.

EPA informed the AOGCC that the May 21, 2009, proposed rule change would contravene federal statutory and regulatory provisions relating to aquifer exemptions and be considered a major modification to the state's underground injection control program. Likewise, EPA informed the AOGCC that its current process for granting aquifer exemptions under 20 AAC 25.440 is sufficient to ensure an effective program. In response to EPA's concerns, the AOGCC proposed that annular disposal be below any freshwater aquifer.¹ In addition, the AOGCC proposed that EPA is responsible for granting an aquifer exemption for annular disposal. EPA did not object to these changes. The AOGCC's modified proposal was noticed for public comment on September 1, 2009. EPA considers the September 1, 2009, proposed rule change to 20 AAC 25.080 is effective in preventing endangerment to underground sources of drinking water. Further, EPA would have no objection to AOGCC retaining its current role in reviewing and forwarding acceptable applications for aquifer exemptions to EPA, with EPA retaining its concurrence role in authorizing the exemption.

If you have any questions or wish to arrange a meeting to discuss this further, please do not hesitate to have your staff contact Thor Cutler, at 206-553-1673, or Ankur Tohan, Office of Regional Counsel at 206-553-1796.

Sincerely,



Peter Contreras, Manager
Ground Water Unit
Office of Compliance and Enforcement

cc: Shawn Stokes, ADEC Division of Water/Wastewater Discharge Permits
Thomas Ballantine, Alaska Assistant Attorney General

¹ The definition of freshwater, located at 20 AAC 25.990(27), is substantially equivalent to the federal definition of an underground source of drinking water.

STATE OF ALASKA

DEPARTMENT OF LAW OFFICE OF THE ATTORNEY GENERAL

SEAN PARNELL, GOVERNOR

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-5903
PHONE: (907)269-5100
FAX: (907)279-8644

October 28, 2009

Ankur Tohan
Assistant Regional Counsel
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900 (ORC-158)
Seattle, Washington 98101

Re: Amendment to Annular Disposal Regulations

Dear Mr. Tohan:

On October 15, 2009, the Alaska Oil & Gas Conservation Commission commenced a public hearing regarding amendments to its annular disposal regulations, 20 AAC 25.080, including the proposed requirement that an operator obtain an aquifer exemption from the EPA. Public comments during the hearing expressed concerns and frustrations regarding the inability of operators to address the need for the changes due to the absence of any input on the record from the EPA.

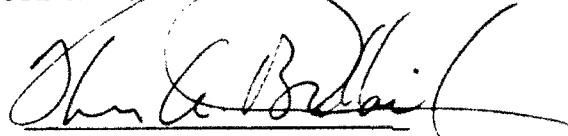
Because amendment of the regulations represents a change from 18 years of operation under a regulatory scheme approved by the EPA, and because the change was undertaken at the behest of the EPA, the Commission requests the EPA to file written comments regarding the necessity for the changes. Because the Commission needs to expeditiously conclude the public process, any comments from the EPA are requested within thirty days of the date of this letter. If the EPA declines to comment, the Commission reserves the right to reconsider changing its regulations.

If you have any questions or wish to discuss this matter further, please do not hesitate to contact me by phone, 907.269.5260, or by email, tab.ballantine@alaska.gov.

Sincerely,

DANIEL S. SULLIVAN
ATTORNEY GENERAL

By:



Thomas A. Ballantine
Assistant Attorney General
Alaska Bar No. 8806122

TAB:ccb

cc: John Norman, Commissioner, AOGCC
Dan Seamount, Commissioner, AOGCC
Cathy Foerster, Commissioner, AOGCC

#5



J. Stephen de Albuquerque
Manager
Health, Safety & Environment

P.O. Box 100360
Anchorage Alaska 99510
Phone 907.263.4682
Fax 907.263.4438
j.s.dealbuquerque@conocophillips.com

February 16, 2010

Mr. Daniel T. Seamount, Jr., Chairman
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, Alaska 99501-3539

**Re: Amended Comments of ConocoPhillips Alaska, Inc.
Proposed Regulation Changes to 20 AAC 25.080**

Dear Chairman Seamount:

ConocoPhillips Alaska, Inc. (CPAI) submits these amended comments on the changes proposed by the Alaska Oil and Gas Conservation Commission ("AOGCC") to the existing annular disposal regulation, 20 AAC 25.080. CPAI previously submitted comments on February 8, 2010, and these comments submitted at the public hearing on February 16, 2010, replace and supersede the comments dated February 8, 2010.

CPAI believes that AOGCC's current annular disposal program is a model program for the disposal of drilling wastes. This program already aids in minimizing surface impact of drilling operations, and, with continued effective management of the program, the industry will be able to continue to safely inject drilling waste while protecting both the surface environment and underground freshwater drinking sources.

CPAI recognizes that the currently proposed draft regulations reflect consideration of a significant number of the concerns noted in CPAI's comments submitted on June 30, 2009. After reviewing the EPA comments submitted in November 2009, the current draft regulations issued on January 16, 2010, and comments submitted by the Alaska Oil and Gas Association on February 8, 2010, CPAI submits the following comments.

CPAI has successfully used the current annular disposal program to safely dispose of the majority of drilling waste from the Colville River Unit (CRU). This program has been successful due to practices of 1) adhering to good surface casing shoe placement in competent shale; 2) getting a good leakoff test below the surface casing shoe and a pump in test ~1,000' below the casing shoe; 3) obtaining good primary cement jobs in the surface casing and 4) monitoring

injection pressures and volumes. As a result of the annular disposal program, no surface reserve pits were required for the CRU development (158 wells to date). CPAI recognizes that not all wells are good annular injection candidates if they don't meet the key criteria listed above.

SPECIFIC COMMENTS

DRAFT REGULATION 20 AAC 25.080 (d)

(d) Drilling waste may not be disposed of into any freshwater unless the operator applies for and the United States Environmental Protection Agency grants an aquifer exemption.

The EPA comment letter submitted in November 2009 is misleading in that it would have the reader believe that annular disposal of drilling mud is regulated under the Safe Drinking Water Act, 42 USC 300(e) *et seq.* ("SDWA") and that an aquifer exemption must be obtained prior to such annular disposal. As discussed in the comments submitted by the AOGA on February 8, 2010, that is not correct. CPAI requests that the AOGCC (1) clarify, on the public record, the existing authority and practice for annular disposal of drilling mud; (2) acknowledge that an aquifer exemption under the SDWA is not required for disposal of drilling mud; and (3) withdraw the proposed regulation 20 AAC 25.080(d). AOGCC should not allow its record to continue to mislead on such an important point and, if regulatory changes are to be made, the regulation process should be restarted from the beginning.

DRAFT REGULATION 20 AAC 25.080 (e)(12)

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

Historically, water salinity does not vary greatly in a given interval across drillsites or fields. CPAI believes that a drillsite scale or sub-regional description of salinity trends and data based on offset wells and other data sources should be accepted for this requirement. As worded, it appears that data could be required to be obtained from the proposed disposal well after completion (additional logs, water sampling, sidewall coring, etc.).

SUGGESTED WORDING

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well as determined from data acquired from the well, existing nearby wells penetrating the same waters or other data sources; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

We would be glad to discuss further any of the above comments with AOGCC staff.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Stephen de Albuquerque', written over the printed name.

J. Stephen de Albuquerque
Health, Safety & Environment Manager

**Alaska Oil & Gas Conservation Committee
Testimony on Proposed Changes to 20 AAC 25.080 Annular
Disposal Regulations
Public Hearing February 16, 2010**

**Randall Kanady, Staff Drilling Engineer ConocoPhillips
Alaska**

Good morning Chairman Seamount and Commissioners Foerster and Norman. My name is Randall Kanady. This morning I am representing ConocoPhillips Alaska (CPAI). I am the Staff Drilling Engineer for ConocoPhillips in the Drilling and Wells group. I hold an undergraduate degree in Petroleum Engineering and a master degree in Environmental Engineering and have over 23 years experience in the oil & gas industry. My assignments have included production engineering, drilling and wells engineering and various Health, Safety and Environmental positions. I have had assignments in all the major operating areas in Alaska.

Today CPAI has provided folders for the Commission that contain copies of the February 16, 2010 CPAI submittal and this testimony.

CPAI submitted written comments to the AOGCC on February 8, 2010 concerning the proposed changes to the Annular Disposal regulation 20 AAC 25.080. Today CPAI is submitting amended comments that replace and supersede the prior comments.

In addition to myself, I would like to introduce Brian Noel Staff Drilling Engineer, Wayne Campaign Staff Geologist and Barbara Fullmer Senior Counsel who are with me this morning and are available to help address

any questions regarding CPAI's submittal on annular disposal. If we are unable to answer any questions today, we will find the information and provide a timely response.

CPAI appreciates the opportunity to submit comments on the changes proposed by the AOGCC to the existing annular disposal regulation, 20 AAC 25.080. CPAI believes that AOGCC's current annular disposal program is an excellent program for managing the disposal of drilling wastes. The program aids in minimizing surface impact of drilling operations and protects water resources. Through continued effective management of the program we will continue protecting both the surface environment and underground freshwater drinking sources.

By following the current regulations, CPAI has safely dispose of the majority of drilling waste from the Alpine Field , which is one of the primary areas using annular disposal in the State of Alaska. The annular disposal program is critical for future drilling in the Alpine area. This program has been successful due to practices of: 1) adhering to good surface casing shoe placement in competent shale; 2) getting a good leakoff test (LOT) below the surface casing shoe and a LOT ~1,000' below the casing shoe; 3) obtaining a good primary cement job in the surface casing, and; 4) monitoring injection pressures and volumes. As a result of the annular disposal program, no surface reserve pits were required for the Alpine development, which has drilled 158 wells to date.

Review of CPAI specific comments on proposed Annular Disposal regulation changes

THE DRAFT REGULATION 20 AAC 25.080 (d) reads:

(d) Drilling waste may not be disposed of into any freshwater unless the operator applies for and the United States Environmental Protection Agency grants an aquifer exemption.

CPAI comments are:

The EPA letter submitted in November 2009 to the AOGCC implies that annular disposal of drilling mud is regulated under the Safe Drinking Water Act and that an aquifer exemption must be obtained prior to such annular disposal. As discussed in the comments submitted by the AOGA on February 8, 2010, that is not true. Because of the confusion the EPA's letter creates, CPAI requests that the AOGCC (1) clarify, on the public record, the existing authority and practice for annular disposal of drilling mud; (2) acknowledge the EPA exemption for disposal of drilling mud under the Safe Drinking Water Act; and (3) withdraw the proposed regulation 20 AAC 25.080(d). AOGCC should not allow its record to continue to mislead on such an important point and, if regulation changes are to be made, the regulation process should be restarted from the beginning.

THE DRAFT REGULATION 20 AAC 25.080 (e)(12) reads:

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

CPAI comments are:

Historically, water salinity does not vary greatly in a given interval across drillsites or fields. CPAI believes that a drillsite scale or sub-regional description of salinity trends and data based on offset wells and other data sources should be accepted for this requirement. As worded, it appears that data, potentially including additional logs, water sampling, sidewall coring ect., could be required to be obtained from the proposed disposal well after completion

CPAI SUGGESTED WORDING

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well as determined from data acquired from the well, existing nearby wells penetrating the same waters or other data sources; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

Thank you for the opportunity to provide comments regarding the proposed regulations governing annular injection.

Alaska Oil and Gas Association



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Email: moriarty@aoga.org
Kara Moriarty, Deputy Director

February 8, 2010

Commissioner Dan Seamount, Chair
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, AK 99501

RE: AOGA Comments on Annular Disposal of
Drilling Waste [20 AAC 25.080]

Dear Commissioner Seamount:

The 14 members of the Alaska Oil and Gas Association (AOGA) account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in the state. We appreciated the opportunity to present testimony on October 15, 2009 and for the Commission's actions during that hearing to postpone any decision on these very important regulations. In both our written comments and the public testimony at the hearing, AOGA voiced its concern that the changes to 20 AAC 25.080 were being made without an adequate public record and significantly, without a stated purpose of why the current regulations, which have been largely unchanged since 1996, needed to be changed. We still hold that opinion and request the AOGCC reconsider its entire rulemaking as explained further in the analysis below.

Overview of the Issue

The federal Safe Drinking Water Act (SDWA) was written in 1974 and extensively amended in 1986. Among other things, the SDWA and the U.S. Environmental Protection Agency's (EPA's) regulations developed under it, regulate the underground injection control (UIC) of wastes. States are allowed to assume primacy of certain UIC activities.

The heart of the UIC program is its classification of UIC disposal wells into five classes, each with its own regulatory scheme. The state of Alaska, through the AOGCC, has primacy for Class II wells – wells which inject fluid for enhanced oil and gas recovery (EOR) and for the disposal of non hazardous wastes associated with the oil and gas industry.

The SDWA does not regulate the drilling of oil and gas wells. In the years following the 1986 amendments to the Act, EPA (at the same time it was preparing its December 1987 Report to Congress on the Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy) at the request of the Alaska oil and gas industry

and the AOGCC determined that the SDWA and EPA's regulations under it did not regulate the annular injection of oil and gas wastes directly associated with the drilling of an oil and gas well. This decision was extremely important to the entire oil and gas industry and is set out in a November 24, 1987 policy memo written from the EPA Office of Water to EPA Region 10 where EPA stated "that the disposal of drilling mud whether in a dry hole or in the annulus of a producing well is not covered by the UIC regulations." The history of that memo and how it was arrived at, the direct correspondence to the AOGCC from EPA, and the corresponding changes that were made to Paragraph 10 of the Memorandum of Agreement (MOA) between the AOGCC and EPA is described in greater detail in our October 9, 2009 comments. A January 8, 1998 letter from EPA Region 10 to the AOGCC then reinforced this decision and stated that the memorandum made it clear that injection of drilling mud into the annulus was not covered by the UIC program and "reinforces the Alaska Oil and Gas Conservation Commission position on the subject." The AOGCC has held firm with this determination since that time, until this recent rulemaking, where it appears to have been inadvertently undermined.

AOGCC Regulations

AOGCC regulations mirror the EPA determination on annular disposal and form the foundation for the distinction between: (1) annular injection activities regulated under 20 AAC 25.080; and (2) the underground disposal of oil field wastes in 20 AAC 25.252 and any associated requests for a freshwater aquifer exemption under 20 AAC 25.440. Sections 25.252 and 25.440, along with the MOA, form the backbone of Alaska's approved Class II UIC disposal program. Importantly, 20 AAC 25.252(k) reinforces the EPA determination where it states that "the annular disposal of drilling wastes under 20 AAC 25.080 is an operation incidental to the drilling of a well and is not a disposal operation subject to this section."

To obtain approval of Class II UIC disposal activities which may affect fresh water under section 25.252 the SDWA and EPA's regulations often require the AOGCC to issue an aquifer exemption under 25.440 in order for the regulated disposal activity to occur. However, because annular injection is not a regulated disposal activity under the SDWA, neither the SDWA nor EPA regulations require the issuance of an aquifer exemption prior to AOGCC authorization of an annular disposal activity. This distinction is extremely important and has been lost in this rulemaking.

The Commission's Rulemaking

On May 21, 2009, the AOGCC proposed a revision to 25.080. However, as the Commission has done in other recent rulemakings instead of using strikeout type amendatory language to show the true changes that were being made, the Commission stated it was proposing to repeal the old regulations and readopt all new regulations.

Importantly, the Commission's oversight process for the annular disposal of drilling waste that could impact freshwater -- the most controversial issue being addressed in this rulemaking and a major subject of this hearing -- was not being substantively changed at all. However, you cannot reach that conclusion without a detailed comparison against the current regulations.

AOGCC regulations at 25.080(e)(1) state “In addition, an authorization to dispose of drilling waste under this section is subject to the following conditions:

- (1) drilling waste may not be disposed of into freshwater, unless
 - (A) freshwater is identified in the Application for Sundry Approval; and
 - (B) commission finds that the freshwater has a total dissolved solids content of more than 3,000 mg/l, and is not reasonably expected to supply a public water system; the commission will, in its discretion, provide 15 days notice and the opportunity for a public hearing in accordance with 20 AAC 25.540 before making that finding;”

In its May 21, 2009 rulemaking the Commission did not propose to change this provision. Instead it was reorganized and rewritten as a standalone subsection at 25.080(d). As such, AOGA and its member companies did not comment on that proposal. For that reason, we were extremely surprised by the September 1, 2009 proposal and the Commission’s abrogation of its oversight authority by proposing a section of regulation that would have prohibited annular disposal of drilling waste into freshwater unless the operator applied for and EPA granted an aquifer exemption. Furthermore, nothing in the administrative record explained why the Commission made this change, a fact the Commission acknowledged at the hearing itself.

After its October hearing, the AOGCC asked EPA for written comments to supplement the administrative record in this rulemaking proceeding. The November 20, 2009 letter from EPA states that it did not believe the Commission’s May 2009 regulations followed federal legal requirements. We disagree and believe the agency misinterpreted what was being proposed. In Paragraph two at the third sentence EPA states “20 AAC 25.080(d) ... would authorize the AOGCC to use its discretion in avoiding a public notice period and an opportunity for a hearing *before granting an aquifer exemption.*” The letter then states that EPA informed the AOGCC that the May 21, 2009 rule change would contravene federal statutory and regulatory provisions relating to aquifer exemptions and be considered a major modification to the state’s underground injection control program. This is incorrect.

The process the Commission has followed for two decades that is set out in 25.080(e) for annular injection is well grounded in law and *is not* a decision by the Commission to grant a freshwater aquifer exemption. It was never intended to be because the SDWA does not regulate the annular disposal of drilling waste. In the fall of 1987, EPA described the practice of annular disposal in its Report to Congress and, when asked by the AOGCC, told the Commission that the SDWA and EPA’s UIC regulations did not cover annular injection activities.

Instead, the disposal activities the AOGCC does oversee that are regulated by the SDWA and EPA’s regulations are set out in the 25.252 disposal regulations and the process for securing a freshwater aquifer exemption under 25.252 is set out in 20 AAC 25.440. Importantly, these two sets of regulations remain unchanged.

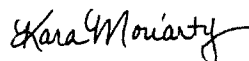
Neither EPA nor the AOGCC have shown why this drastic and substantial change is required.

First, as stated above, annular pumping is not an activity regulated by EPA under the Safe Drinking Water Act or its implementing regulations. As such, EPA cannot require the AOGCC to grant an aquifer exemption under its annular injection regulations. Second, the AOGCC is not changing its UIC Class II disposal regulations or its freshwater aquifer exemption regulations. Third, even if an aquifer exemption was required that process is set out in 25.440. The letter from EPA says the current process the AOGCC uses works. Requiring an aquifer exemption under the annular disposal program will cause timing delays that would severely impact an individual company's plans and work activities. Delegating it to EPA would cause even further delays and would create a process that conflicts with existing AOGCC regulations. Finally, there could be serious implications for exploration activities, especially in remote locations of Alaska, such as the National Petroleum Reserve-Alaska, the Foothills region of the North Slope and the west side of Cook Inlet. Unlike other parts of the country, these drilling prospects are located in very isolated regions, with no infrastructure, roads, or permanent facilities. Mandating an aquifer exemption in these areas under the annular disposal regulations is inconsistent with state and federal law and policy.

In summary, AOGA members appreciate the consideration given to our previous comments. We do not however believe the administrative record supports the change to 25.080 that were proposed in September, and re-proposed in January. We therefore recommend one of two courses of action. First, the Commission should revert to its original proposal at 25.080(d) from May of 2009 that keeps the same regulatory process in place that has existed since at least 1996. As an alternative, the AOGCC could consider another rule making approach to amend (not repeal and readopt) the current regulations. This approach would allow the AOGCC to highlight proposed changes and give the public the opportunity to clearly follow and understand true regulatory changes that are being proposed. Whatever course of action is taken, we strongly recommend the AOGCC retain the distinction between Class II waste disposal activities, which are regulated by the SDWA and EPA regulations, and annular injection activities, which are not, and retain the current language in 20 AAC 25.080 (e)(1).

Again, thank you for soliciting public comment on these proposed regulations. At the February 16, 2010 hearing we will have AOGA member company technical and legal representatives available to address any questions related to this issue.

Sincerely,



KARA MORIARTY
Deputy Director

Cc: Thor Cutler, EPA, UIC Division



Steve de Albuquerque
ConocoPhillips Alaska, Inc.
Health, Safety & Environment Manager

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Anchorage, AK 99510-0360
Phone 907-263-4889
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February 8, 2010

Mr. Daniel T. Seamount, Jr., Chairman
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, Alaska 99501-3539

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FEB 08 2010

Alaska Oil & Gas Cons. Commission
Anchorage

**Re: Comments of ConocoPhillips Alaska, Inc.
Proposed Regulation Changes to 20 AAC 25.080**

Dear Chairman Seamount:

ConocoPhillips Alaska, Inc. (CPAI) appreciates the opportunity to submit comments on the changes proposed by the Alaska Oil and Gas Conservation Commission ("AOGCC") to the existing annular disposal regulation, 20 AAC 25.080. CPAI believes that AOGCC's current annular disposal program is a model program for the disposal of drilling wastes. This program already aids in minimizing surface impact of drilling operations, and, with continued effective management of the program, the industry will be able to continue to safely inject drilling waste while protecting both the surface environment and underground freshwater drinking sources.

CPAI recognizes that the currently proposed draft regulations reflect consideration of a significant number of the concerns noted in CPAI's comments submitted on June 30, 2009. After reviewing the EPA comments submitted in November 2009 and the current draft regulations issued on January 16, CPAI submits the following comments.

CPAI has successfully used the current annular disposal program to safely dispose of the majority of drilling waste from the Colville River Unit (CRU). This program has been successful due to practices of 1) adhering to good surface casing shoe placement in competent shale; 2) getting a good leakoff test below the surface casing shoe and a pump in test ~1,000' below the casing shoe; 3) obtaining good primary cement jobs in the surface casing and 4) monitoring injection pressures and volumes. As a result of the annular disposal program, no surface reserve pits were required for the CRU development (158 wells to date). CPAI recognizes that not all wells are good annular injection candidates if they don't meet the key criteria listed above.

SPECIFIC COMMENTS

DRAFT REGULATION 20 AAC 25.080 (d)

(d) Drilling waste may not be disposed of into any freshwater unless the operator applies for and the United States Environmental Protection Agency grants an aquifer exemption.

The word "aquifer" needs to be added after freshwater to read "freshwater aquifer". CPAI suggests rewording this proposed regulation to encompass the current regulatory authority.

SUGGESTED WORDING

(d) Drilling waste may not be disposed of into any freshwater aquifer unless the aquifer is an exempt aquifer under 20 AAC 25.440 and 40 CFR 144.7(b) or 40 CFR 147.102.

DRAFT REGULATION 20 AAC 25.080 (e)(10)(A)

*(e)(10) information demonstrating that the shoe of the outer casing
(A) is set below the base of permafrost and any freshwater; and*

Currently, there are several existing "No USDW" exemption rulings in Alaska. CPAI is concerned that these aquifer exemptions are not recognized within the proposed regulation language.

SUGGESTED WORDING

(A) is set below the base of permafrost and any freshwater aquifer, unless the aquifer is an exempt aquifer under 20 AAC 25.440 and 40 CFR 144.7(b) or 40 CFR 147.102; and

DRAFT REGULATION 20 AAC 25.080 (e)(12)

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

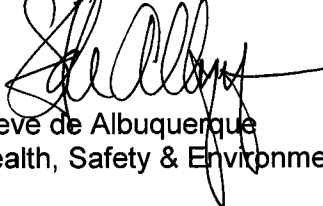
Historically, water salinity does not vary greatly in a given interval across drillsites or fields. CPAI believes that a drillsite scale or sub-regional description of salinity trends and data based on offset wells and other data sources should be accepted for this requirement. As worded, it appears that data could be required to be obtained from the proposed disposal well after completion (additional logs, water sampling, sidewall coring, etc.).

SUGGESTED WORDING

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well as determined from data acquired from the well, existing nearby wells penetrating the same waters or other data sources; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

We would be glad to discuss further any of the above comments with AOGCC staff.

Sincerely,



Steve de Albuquerque
Health, Safety & Environmental Manager

Alaska Oil and Gas Association



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Phone: (907) 272-1481 Fax: (907) 279-8114
Email: moriarty@aoga.org
Kara Moriarty, Deputy Director

October 9, 2009

Commissioner Dan Seamount, Chair
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, AK 99501

RE: AOGA Comments on Annular Disposal of
Drilling Waste [20 AAC 25.080]

Dear Commissioner Seamount:

The 15 members of the Alaska Oil and Gas Association (AOGA) account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in the state. We appreciate the opportunity to comment on the revised set of proposed regulations regarding annular disposal of drilling waste, 20 AAC 25.080.

In AOGA's earlier comments on these regulations, dated June 25, 2009, we suggested several revisions to the proposed regulations, some of which the Alaska Oil and Gas Conservation Commission (AOGCC) has adopted into this current version. We appreciate the AOGCC's willingness to consider these recommendations. We'd also like to support the proposed additional language in section 20 AAC 25.110(n) in the suspended well regulations to allow for a variance if warranted and necessary.

More importantly, we appreciate the time spent by AOGCC staff with industry to review the background and rationale behind the current set of regulations. This open dialogue served to clarify questions industry had about these regulations and made it clear AOGCC's intent in addressing some of our previous concerns.

The one portion of the current proposed regulations that AOGA would like to comment on is the modification of aquifer exemptions for the disposal of drilling waste in freshwater and the new requirement that an operator will now have to apply for these exemptions directly to the Environmental Protection Agency (EPA) versus working directly with AOGCC. This new requirement is found in the proposed section of 20 AAC 25.080(d). The proposed regulations are inconsistent with the attached 1991 EPA/AOGCC Memorandum of Agreement (MOA). Paragraph 10 of the MOA specifically states that pumping of drilling muds into the annuli of any well is an operation incidental to the drilling of the well and is not a disposal operation subject to regulation as a Class II well. This statement is also reflected in the attached guidance memos from

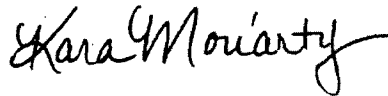
EPA to industry and the AOGCC that annular pumping of drilling fluids is not an activity regulated under the Safe Drinking Water Act. AOGA respectfully asks the AOGCC to reconsider this proposed change to its regulations and delete the proposed section 25.080(d).

It is our understanding that existing aquifer exemptions will remain in place and operators will not need to reapply with the AOGCC or EPA for current exemptions. However, our concern is three-fold. First, as stated above, annular pumping is not an activity regulated by EPA under the Safe Drinking Water Act or its implementing regulations. Second, timing delays in obtaining an aquifer exemption from EPA could severely impact an individual company's plans and work activities. Third, there could be serious implications for exploration activities, especially in remote locations of Alaska, such as the National Petroleum Reserve-Alaska, the Foothills region of the North Slope and the west side of Cook Inlet. Unlike other parts of the country, these drilling prospects are located in very isolated regions, with no infrastructure, roads, or permanent facilities. Without obtaining an aquifer exemption in a timely manner for these regions, proposed exploration and development could be stymied, delayed and subject to unnecessary costs.

We recognize this issue may not be one that the AOGCC can solely address, however, we feel it is important to outline industry's concerns. Should the proposed regulations be adopted, AOGA plans to follow-up directly with EPA to address these concerns in further detail.

Again, thank you for soliciting public comment on these proposed regulations. We look forward to working with you, the other Commissioners and your staff on future projects.

Sincerely,



KARA MORIARTY
Deputy Director

Cc: Thor Cutler, EPA, UIC Division

Attachments: EPA letters 1980 and 1987
EPA MOA with AOGCC 1991

SEP 24 1992

& REG. AFFAIRS

**MEMORANDUM OF AGREEMENT
BETWEEN
THE ALASKA OIL AND GAS CONSERVATION COMMISSION,
AND
THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 10**

The Alaska Oil and Gas Conservation Commission ("AOGCC") and the Environmental Protection Agency, Region 10 ("EPA") hereby agree to implement the Alaska Underground Injection Control ("UIC") Program, as authorized by Section 1425 of the Safe Drinking Water Act ("SDWA"), in accordance with the terms articulated below.

This Memorandum of Agreement (Agreement) supersedes and replaces the Agreement dated January 29, 1986, and Addendum #1 to the original Agreement, dated June 21, 1988.

General Provisions

1. The AOGCC will carry out the UIC program as described in its application for primacy for Class II wells, and will support the program by an appropriate level of staff and resources to assure that Underground Sources of Drinking Water (USDW) in Alaska are protected from contamination by fluids injected into Class II wells.
2. This Agreement, unless revised in accordance with procedures outlined in paragraph 3, shall remain in effect for as long as the AOGCC has primacy for the Alaska Class II UIC program.
3. This Agreement shall be reviewed annually by both parties as part of the annual program plan and grant application process. The annual program plan shall be consistent with this Agreement and may not override this Agreement.

This Agreement may be modified upon the initiative of the AOGCC or EPA. Modifications must be in writing and must be signed by the Chairman of AOGCC and the Regional Administrator. Modifications may be made by addenda attached to this Agreement, and will be consecutively numbered, signed, and dated. Alternatively, this Agreement may be replaced by a subsequent Agreement should conditions warrant substantial change to its terms. Modifications will take effect when both parties sign the addenda or new Agreement.

4. EPA is responsible for apprising the AOGCC of any proposed, pending or enacted modifications of Federal guidelines, technical standards, regulations, policy decisions, directives, and any other factors which affect the UIC program. EPA will provide copies to AOGCC of all enacted Federal laws, regulations and guidelines affecting the UIC Program. EPA will inform AOGCC of any resource allocation changes which might affect AOGCC's ability to administer the

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program. EPA will also notify AOGCC of any UIC training courses scheduled during the grant year and will make such training available to AOGCC personnel.

The AOGCC is responsible for apprising EPA of any proposed, pending, or enacted modifications to laws, regulations, or guidelines, and any judicial decisions or administrative actions which might affect the Alaska Class II UIC program and the AOGCC's authority to administer the program. The AOGCC shall inform EPA of any resource allocation changes (e.g.: personnel, budget, or equipment) which might affect the AOGCC's ability to administer the program.

5. When AOGCC assumed primacy, it agreed to treat any confidential information received from EPA in accordance with 40 C.F.R. Part 2. As part of its oversight responsibility, EPA reserves the right to review information and data submitted to the AOGCC by owners and/or operators of Class II injection wells pursuant to the requirements of the Alaska Class II UIC Program.

The AOGCC agrees to provide any such data requested in a timely manner after receiving a written request from EPA. In the event that EPA requests and receives data from the AOGCC that the AOGCC is treating as confidential information under AS 31.05.035, EPA will offer the operator that originally submitted the data to AOGCC the opportunity to make a separate claim of confidentiality under 40 C.F.R. Part 2. If such a claim is made, EPA will treat the data as business confidential information until EPA Region 10's Office of Regional Counsel has made the determination required by 40 C.F.R. Part 2.

6. Program reporting will be in accordance with the terms articulated in the annual program grant agreement.

Performance Review & Program Grants

7. The AOGCC will apply annually for, and to the extent eligible and subject to availability of funds, receive from EPA all program grants provided under Section 1443 of the SDWA, 42 U.S.C. §300j-2. The grant application shall be submitted no later than June 1 for the grant year starting July 1. The application shall consist of an annual work plan, a progress report, and applicable budget sheets. EPA will act on the application within 30 days of its receipt and will award funds for the grant year as they become available to the EPA. If the award of grant funds is significantly delayed beyond the beginning of the Federal fiscal year, EPA and the AOGCC will negotiate revisions in the approved grant work plan to reflect the effects of the funding delay on the ability of the AOGCC to complete the work envisioned in the plan.
8. EPA shall conduct an annual mid-year performance evaluation of the Alaska Class II UIC program to determine state program consistency with the SDWA and applicable regulations, guidance and policies.

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- A. The review will include an examination of financial expenditures, progress towards program implementation, changes in the program description, and progress on program elements. Each mid-year review will include a meeting with AOGCC representatives to discuss program progress and performance. The review may also include the examination of any AOGCC files pertaining to the Alaska Class II UIC program.
- B. After the completion of its mid-year performance review, EPA will submit a draft of its findings to the AOGCC, outlining any deficiencies in program performance and recommendations for improving AOGCC operations. The draft report may also provide guidance for the development of the upcoming grant application. After receipt of the AOGCC's comments on these proposed findings, EPA will develop a final report of the mid-year performance evaluation and provide the AOGCC with a copy of this report.
- C. EPA may conduct not more than one performance audit of the Alaska Class II UIC program each grant year. These audits will follow essentially the same procedures as the regular mid-year review but will include more thorough examinations of AOGCC's records and more extensive discussion of program performance. EPA will notify AOGCC at least 30 days in advance of conducting a performance audit and specify the subject matter to be audited and the date of the audit.

Definition of Class II Wells and Fluids

- 9. The AOGCC and EPA agree that Class II wells are defined as wells which inject fluids:
 - a) which are brought to the surface in connection with natural gas storage operations, or with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified, at the time of injection, as a hazardous waste under 40 C.F.R. §261.3 (A II-D well under EPA's classification system);
 - b) for enhanced recovery of oil or natural gas (A II-R well under EPA's classification system); and
 - c) for storage of hydrocarbons which are liquid at standard temperature and pressure (A II-H well under EPA's classification system).
- 10. The pumping away of drilling muds and precipitation from reserve pits (not runoff) into an exploratory or stratigraphic test well, or into the annuli of any well approved in accordance with 20 AAC 25.005, is an operation incidental to the drilling of the well, and is not a disposal operation subject to regulation as a Class II well.

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11. The term "fluids" as used in this Agreement shall have the same meaning as the term "fluid" under 40 C.F.R. § 144.3. To determine whether a waste fluid from oil and gas production is a hazardous waste the following procedures shall be followed:
- A. AOGCC will determine whether the fluid would fall within the scope of the exemption from RCRA regulation for "drilling fluids, produced wastes, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy." See the Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes (RCRA Regulatory Determination). 53 Fed. Reg. 25446, 25453-54 (1988). (Resource Conservation and Recovery Act § 3001(b)(2)(A), 42 U.S.C. § 6921(b)(2)(A)).
 - B. If the fluid is not one of the listed exempt wastes under the RCRA Regulatory Determination, the AOGCC will determine whether the waste is listed as hazardous or if it exhibits one of the hazardous characteristics under 40 C.F.R. Part 261.
 - C. If the fluid is a listed or characteristic waste under 40 C.F.R. Part 261, then AOGCC will determine whether the fluid may still fall within the scope of the RCRA exemption by ascertaining if the fluid is: 1) intrinsic to exploration, development or production activities; 2) uniquely associated with these activities, or; 3) not generated as part of a transportation or manufacturing operation.
12. For enhanced recovery injection wells, AOGCC and EPA agree that the injected fluids must function primarily to enhance recovery of oil and gas and must be recognized by AOGCC as being appropriate for enhanced recovery. In determining fluids appropriate for enhanced recovery, the AOGCC will promote waste minimization by encouraging the beneficial recycling of fluids, which if not used in this manner would otherwise be considered a waste.
13. AOGCC shall immediately notify, by telephone or facsimile transmission, the Chief of the Drinking Water Programs Branch at EPA if it learns of hazardous waste injection in what would otherwise be considered a Class II well.

Aquifer Exemptions

14. Aquifer exemptions shall be processed in the following manner:
- A. The AOGCC agrees to encourage applicants for aquifer exemptions to submit any aquifer exemption application in conjunction with a permit application or an application to amend an existing permit.

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Anchorage

- B. The AOGCC shall provide public notice in accordance with 20 AAC 25.540 offering the public the opportunity to comment and to request a hearing for each application for an aquifer exemption.
- C. The AOGCC shall notify EPA in writing when it has received an application for an aquifer exemption, within 14 days of the application's receipt.
- D. EPA will take all possible steps to act on a request for an aquifer exemption within 30 days of receiving a complete application from the AOGCC. A completed application must include (1) a complete copy of the application, (2) a copy of the public notice, (3) a summary of all public comments received and the AOGCC's responses, and (4) a copy of the transcript of any public hearings held.
- E. In accordance with established national guidance, EPA will treat the following types of requests for aquifer exemptions, under 40 C.F.R. § 146.4(b), as "minor" exemptions:
- All exemptions considered as a part of a single permit application
 - Exemptions associated with an **existing** enhanced recovery well or project (limited to a single well or field) (Emphasis supplied)
- F. Additionally, EPA will normally treat each of the proposed aquifer exemptions submitted under 40 C.F.R. § 146.4(c) as requests for minor aquifer exemptions under current EPA guidance. For proposed aquifer exemptions submitted under 40 C.F.R. § 146.4(c), the exemption becomes final if the administrator of the EPA (Region 10) does not disapprove the designation within 45 days.
- G. EPA reserves the right to treat any request for an aquifer exemption as a major exemption, and process the request as a proposed program revision under 40 C.F.R. § 145.32, if the circumstances warrant.

Enforcement Provisions


15. EPA and the AOGCC entered into a Compliance Assurance Agreement (CAA) for the Alaska Class II UIC program on November 2, 1987. The CAA defines the specific procedures that EPA and the AOGCC will use to assure compliance with the requirements of the UIC program. The provisions in this section define general principles and conditions that apply to these compliance assurance efforts. Where the language of the CAA and the language of this MOA conflict, the MOA will be determinative.

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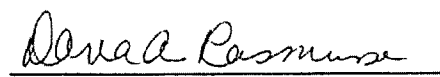
NOV 20 1991

Alaska Oil & Gas Cons. Commission
Anchorage

16. The AOGCC shall immediately notify, by telephone or facsimile transmission, the Chief of the Drinking Water Programs Branch at EPA if it learns of any imminent hazard to public health resulting from USDW contamination by fluids injected into a Class II well.
17. The AOGCC may allow the use of mechanical integrity tests that are listed in 40 C.F.R. § 146.8. If the AOGCC wishes to allow the use of alternative mechanical integrity tests, it shall follow the procedures for obtaining approval of alternative tests outlined in 40 C.F.R. § 146.8(d). The AOGCC shall witness each year a minimum of 25% of the mechanical integrity tests required of wells that inject through USDWs.
18. When seeking injunctive relief for UIC violations, the AOGCC shall request the court, when appropriate, to order the violator to cease or curtail its oil and gas production operations.
19. EPA may conduct inspections of Class II operations. The AOGCC shall participate with the EPA in these inspections of Class II wells or operator records to the fullest practicable extent. EPA will usually notify the AOGCC at least ten days before any proposed inspection and will describe the well(s) or record(s) to be inspected and the purpose of the inspection. EPA will provide the AOGCC with a copy of the inspection report. EPA reserves the right to inspect Class II operations without notification to AOGCC as provided in Section 1445 of the SDWA.
20. EPA may take federal enforcement action under Section 1423 of the SDWA in cases where the AOGCC fails to take timely and appropriate enforcement actions against a person violating the applicable requirements of the Alaska Class II UIC program. EPA will follow all applicable procedures contained in Section 1423. EPA may also take federal enforcement action under Section 1431 of the SDWA, if applicable.


David W. Johnston
Chairman, Alaska Oil and Gas
Conservation Commission

DATE: Nov 22, 1991


Dana A. Rasmussen
Regional Administrator
U.S. Environmental Protection Agency
Region 10

DATE: NOV 15 1991

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NOV 20 1991

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Anchorage

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Anchorage



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 24 1987

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Annular Injection

FROM: Paul M. Baltay, Director
State Program Division *Baltay*

TO: Dick Thiel, Chief
Drinking Water Program Branch

The discussions we have held with you and your staff on the coverage of the UIC program have dealt with disposal of drilling muds used in the construction of oil and gas wells or the drilling of exploratory holes, which are one-time operations. The position we have taken is that disposal of such drilling muds whether in a dry hole or in the annulus of a producing well is not covered by the UIC regulations. This decision is not affected by whether the muds are produced in drilling of one or several wells or whether they are placed into the dry hole or the annulus all at once or over a period of time.

This decision in no way affects disposal of hazardous waste, radioactive waste, industrial waste, sanitary waste or produced fluids. For these as for any other fluids injected through a well the regulations and attendant prohibitions, particularly the prohibition on injection of fluids in the casing-borehole annulus apply regardless of quantities injected.

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JAN 14 1988

Alaska Oil & Gas Cons. Commission
Anchorage



AOG003194

NOV 09 1984

WD-132

*mud from several
wells down one
well*

Annular Injection

From: Dick Thiel, Chief
Drinking Water Programs Branch

To: Paul Daltay, Director,
State Programs Division (WH-550E)

Recently we discussed with you and Francoise Brasier the coverage of "annular injection" under the Underground Injection Control (UIC) Program. Similar to the previous "commingling" issue, regulatory coverage of "annular injection" is a gray area to us. Clearly, the UIC regulations [40 CFR 145.13(a)(2), 145.23(a)(2), and 145.33(a)(2)] prohibit injection between the outermost casing protecting underground sources of drinking water (USDWs) and the well bore, regardless of the type of injectate. In 44 F.R. 23745 "Other types of annual (sic) injection would be permissible, however, if it is determined that they would not result in the contamination of ground water. Such a determination would be made by a mechanical integrity test, unless the well design itself insures that fluid migration will not occur." Furthermore, 44 F.R. 23754 discusses the "principal function of the well" and concludes that injection into exploratory wells (regardless of impact to a USDW) is not included under the UIC regulations.

Based on a June 15, 1984, memorandum from Larry Graham, in response to our May 15, 1984, memorandum (copies attached), injection of drilling fluids into an annulus of an exploratory or production well is not regulated under the UIC Program because the primary function of the well is not for the emplacement of fluids. In addition, during our conversation you indicated that drill muds could be combined with precipitation from a drill mud pit (which may include drill muds from other wells) and that injection on a one-time basis into the annulus of the initial well or the annulus of another well would not be regulated under the UIC Program.

The above clarification is helpful, however, there are still some unanswered questions regarding UIC exemption. We are uncertain as to the length of time an annular injection operation can continue, the quantity that can be injected, or the make-up of the injectate in order to retain UIC exemption. For example, would a production well that keeps an annulus open for intermittent injection of drill muds for the life of the production well be exempt from the UIC Program, or is this a dual purpose well where injection is considered one of the principal functions of the well and thus is to be regulated? Also, would the injection of hazardous waste, radioactive waste, industrial wastes, sanitary waste, or produced fluids into an annulus of a well be exempt from the UIC Program even on a one-time basis?

NOV 09 1984
AOG003183

It appears to me that there are three basic issues that should determine UIC exemption, namely: (1.) The principal function of the well, (2.) The type of injected fluids and/or quantity, and (3.) Presence of USDWs. I think it is important to differentiate what is covered and what is not covered under the UIC Program. Therefore, I recommend revision to 40 CFR 144.1(g) or to the pending guidance Larry Graham indicates is forthcoming as follows:

(1) Specific inclusions.

- (v) Annular injection of any quantity of hazardous waste, radioactive waste, industrial waste, sanitary waste or produced fluids.

(Rationale: These substances are harmful if ingested, and the preponderance of the UIC regulations are directed to preventing migration of these fluids into a USDW. However, the presence or absence of a USDW should have no bearing because annular injection of these fluids is inherently unsafe.)

(2) Specific exclusions.

- (v) Annular injection of drill muds and precipitation in areas where there are no USDWs or below all USDWs, wherein such injection will not result in contamination of a USDW as determined by either a mechanical integrity test or the well design insures that fluid migration will not occur.

(Rationale: This approach would conform with the preamble language contained in the Federal Register and would recognize varying geologic, hydrological, and historical conditions [Section 1421(b)(3)(a)(1)] in Alaska. For example, on the North Slope of Alaska, injection occurs below approximately 1800 feet of permafrost, and in areas where there are no USDWs.)

At the November UIC Section Chiefs' meeting in Boston, I would appreciate a discussion of this issue and the status of the Resource Conservation and Recovery Act (RCRA) study to determine whether drill muds are a hazardous waste. We plan to have a meeting with Region 10 states on December 17 and 18, 1987, and hope to have a definitive answer for them on the "annular injection" issue. Your assistance is appreciated, and if you need additional information, please contact Harold Scott at FTS 399-1846.

Attachment

cc: Francoise Brasier, WH-550E
George Hoessel, Region 3



AOG003184



Roger D. (Dale) Summerlin
Vice President
Health, Safety & Environment

P.O. Box 100360
Anchorage, AK 99510-0360
Phone 907.263.4682
Fax 907.263.4438

October 9, 2009

Mr. Daniel T. Seamount, Jr., Chairman
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, Alaska 99501-3539

RECEIVED

OCT 09 2009

**Re: Comments of ConocoPhillips Alaska, Inc.
Proposed Regulation Changes to 20 AAC 25.080**

**Alaska Oil & Gas Cons. Commission
Anchorage**

Dear Chairman Seamount:

ConocoPhillips Alaska, Inc. (CPAI) appreciates the opportunity to submit comments on the changes proposed by the Alaska Oil and Gas Conservation Commission ("AOGCC") to the existing annular disposal regulation, 20 AAC 25.080. CPAI believes that AOGCC's current annular disposal program is a model program for the disposal of drilling wastes. This program already aids in minimizing surface impact of drilling operations and through continued effective management of the program the industry will be able to continue to safely inject drilling waste while protecting both the surface environment and underground freshwater drinking sources.

CPAI recognizes that AOGCC has incorporated significant parts of our comments submitted on June 30, 2009. After reviewing the current draft regulations issued on September 1, 2009, CPAI would like to provide some minor comments listed below.

CPAI has successfully used the current annular disposal program to safely dispose of the majority of drilling waste from the Alpine Field. This program has been successful due to practices of: 1) adhering to good surface casing shoe placement in competent shale; 2) getting a good leakoff test (LOT) below the surface casing shoe and a pump in test ~1,000' below the casing shoe; 3) obtaining good primary cement jobs in the surface casing, and; 4) monitoring injection pressures and volumes. As a result of the annular disposal program, no surface reserve pits were required for the Alpine development (158 wells to date). CPAI recognizes that not all wells are good annular injection candidates if they don't meet these key criteria.

SPECIFIC COMMENTS

DRAFT REGULATION 20 AAC 25.080 (e)(10)(A)

(e)(10) information demonstrating that the shoe of the outer casing

(A) is set below the base of permafrost and any freshwater; and

October 9, 2009

Currently, there are several existing "No USDW" exemption rulings in Alaska. CPAI is concerned that these aquifer exemptions are not recognized within the proposed regulation language.

SUGGESTED WORDING

(A) is set below the base of permafrost and any freshwater, unless the aquifer is exempt under 20 AAC 25.440 or 40 C.F.R. 147.102 ; and

DRAFT REGULATION 20 AAC 25.080 (e)(12)

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

Historically, water salinity does not vary greatly in a given interval across drillsites or fields. CPAI believes that a drillsite scale or sub-regional description of salinity trends and data based on offset wells and other data sources should be accepted for this requirement. As worded, it appears that data could be required to be obtained after completion from the proposed disposal well (additional logs, water sampling, sidewall coring, etc.).

SUGGESTED WORDING

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well as determined from the well, surrounding wells or other data sources; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

We would be glad to discuss further any of the above comments with AOGCC staff.

Sincerely,



Roger D. (Dale) Summerlin



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

SEP 21 2009

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Reply To: OCE-127

SEP 24 2009

Alaska Oil & Gas Cons. Commission
Anchorage

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dan Seamount, Chair
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue, Suite 100
Anchorage, Alaska 99501

Re: Notice of Proposed Changes to Title 20 Alaska Administrative Code 25.080
(20 AAC 25.080) dated September 1, 2009

Dear Mr. Seamount:

Thank you for the opportunity to comment on the Commission's proposed changes to 20 AAC 25.080. The U.S. Environmental Protection Agency, Region 10 (EPA), has reviewed the proposed rule and requests the Commission include a qualification in paragraph (h). Specifically, EPA requests that the waiver provisions set out in paragraph (h) not apply to any portion of paragraph (d), which pertains to disposal into freshwater and aquifer exemptions.

If you have any questions or concerns, please feel free to contact Thor Cutler of my staff at (206) 553-1673.

Sincerely,

Peter Contreras, Manager
Ground Water Unit
Office of Compliance and Enforcement

cc: Shawn Stokes, ADEC Division of Water/Wastewater Discharge Permits
Jody Colombie, AOGCC



Roger D. (Dale) Summerlin
Vice President
Health, Safety & Environment

P.O. Box 100360
Anchorage, AK 99510-0360
Phone 907.263.4682
Fax 907.263.4438

June 30, 2009

RECEIVED

JUN 30 2009

Mr. Daniel T. Seamount, Jr., Chairman
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, Alaska 99501-3539

**Alaska Oil & Gas Cons. Commission
Anchorage**

**Re: Comments of ConocoPhillips Alaska, Inc.
Proposed Regulation Changes to 20 AAC 25.080**

Dear Chairman Seamount:

ConocoPhillips Alaska, Inc. (CPAI) appreciates the opportunity to submit comments on the changes proposed by the Alaska Oil and Gas Conservation Commission (AOGCC) to the existing annular disposal regulation, 20 AAC 25.080. CPAI believes that AOGCC's current annular disposal program is a model program for the disposal of drilling wastes. This program already aids in minimizing surface impact of drilling operations and through continued effective management of the program the industry will be able to continue to safely inject drilling waste while protecting both the surface environment and underground freshwater drinking sources. CPAI's specific comments are provided below.

CPAI has successfully used the current annular disposal program to safely dispose of the majority of drilling waste from the Alpine Field. This program has been successful due to practices of: 1) adhering to good surface casing shoe placement in competent shale; 2) getting a good leakoff test (LOT) below the surface casing shoe and a LOT ~1,000' below the casing shoe; 3) obtaining good primary cement jobs in the surface casing, and; 4) monitoring injection pressures and volumes. As a result of the annular disposal program, no surface reserve pits were required for the Alpine development (158 wells to date). CPAI recognizes that not all wells are good annular disposal candidates if they don't meet these key criteria.

SPECIFIC COMMENTS

DRAFT REGULATION 20 AAC 25.080 (e)(4)

(e)(4) an assessment of shallow seismic information, where available, with an interpretation of faults and other anomalies within a one-quarter mile radius of the casing shoe of the disposal annulus;

Seismic programs are not typically designed for interpretations of shallow depths, therefore, the data in most cases would not be of the quality an operator would otherwise want and the requirement of a shallow seismic assessment would have dubious benefit.

If this requirement is to be included, it would be beneficial to define what an "assessment" would include.

Since multiple annular disposal well permits may be sought on any development drill site, it would be more efficient and preferable to do a one-time map interpretation (covering the one-quarter mile radius beyond all planned casing shoes) which could be provided initially or attached to all subsequent permit applications. Also, a map of interpreted faults could be available for drill sites in development areas, whereas several interpreted seismic lines may be the only products available near an exploratory well.

SUGGESTED WORDING

(e)(4) an assessment of shallow seismic information, where available, with an interpretation of faults and other anomalies within a one-quarter mile radius of the casing shoe of the disposal annulus or annuli if multiple wells are to be permitted;

DRAFT REGULATION 20 AAC 25.080 (e)(5)

(e)(5) a stratigraphic description of and well log(s) across the disposal interval showing the drilling waste receiving and confining intervals;

If there are no appropriate well logs available for the disposing wellbore, logs from off-set wells are generally representative of the stratigraphy in the area of a proposed disposal annulus and should be sufficient and accepted for the application.

SUGGESTED WORDING

(e)(5) a stratigraphic description of and off-set well log(s) across the disposal interval showing the drilling waste receiving and confining intervals;

DRAFT REGULATION 20 AAC 25.080 (e)(10)(A)

(e)(10) information demonstrating that the shoe of the outer casing

(A) is set below the base of permafrost and any freshwater aquifer with a total dissolved solids content of less than 3,000 mg/l; and

Currently, there are several existing "No USDW" exemption rulings in Alaska. CPAI is concerned that these aquifer exemptions are not recognized within the proposed regulation language

SUGGESTED WORDING

(A) is set below the base of permafrost and any freshwater aquifer with a total dissolved solids content of less than 3,000 mg/l, unless the aquifer is exempt under 20 AAC 25.440 or 40 C.F.R. 147.102 ; and

DRAFT REGULATION 20 AAC 25.080 (e)(10)(C)

20 AAC 25.080(e)(10)(C) If the annular disposal operations are proposed for a permitted but not drilled well, the information required under (e)(10)(B) of this section may be submitted as soon

as it becomes available; the annular disposal application will not be completed until all the information has been submitted

CPAI recommends moving this requirement to the last part of section 20 AAC 25.080 (e)(15). The intent of this requirement appears to be to state that an annular disposal application is not complete until all requirements of subsection (e) (1)-(14) have been met. CPAI recommends making this change to make this requirement simpler and easier to understand.

SUGGESTED WORDING

Delete section 20 AAC 25.080(e)(10)(C) and create a new section 20AAC 25.080(e)(15) as follows:

The annular disposal application will not be complete until all the information required under 20 AAC 25.080(e) has been submitted

DRAFT REGULATION 20 AAC 25.080 (e)(11)

(e)(II) a list and description of any uncemented hydrocarbon zones within the disposal annulus;

State regulations that specify cement isolation across hydrocarbon zones should be consistent in the requirements. Current AOGCC regulation 20 AAC 25.030(d)(5) - Casing and Cementing states, in pertinent part:

Intermediate and production casing must be cemented with sufficient cement to fill the annular space from the casing shoe to a minimum of 500 feet above all **significant** hydrocarbon zones and abnormally geo-pressured strata or if zonal coverage is not required under (a) of this section, from the casing shoe to a minimum of 500 feet above the casing shoe:...[emphasis added]

Unambiguous identification of all hydrocarbon bearing zones may be difficult in many instances (thin beds, tight formations, limited open hole log suites) where CPAI has historically conducted annular disposal without problems (between the base of the West Sak and the top of cement above the Kuparuk). The annular disposal well requirement regarding uncemented hydrocarbon zones should "line up" with the casing and cementing regulation requirement.

SUGGESTED WORDING

(II) a list and description of any uncemented significant hydrocarbon zones within the disposal annulus;

DRAFT REGULATION 20 AAC 25.080 (e)(12)

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

Historically, water salinity does not vary greatly across drillsites or fields. CPAI believes that a drillsite scale or sub-regional description of salinity trends and data based on offset wells and other data sources should be accepted for this requirement. As worded, it appears that data could be required to be obtained after completion from the proposed disposal well (additional logs, water sampling, sidewall coring, etc.).

SUGGESTED WORDING

(e)(12) a list of, description of, and salinity determination for all waters penetrated by the well as determined from surrounding wells or other data sources; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;

DRAFT REGULATION 20 AAC 25.080 (f)(2)

(f)(2) the operator must continuously monitor the following during disposal operations: the types and volumes of each type of waste disposed, disposal rates, surface pressures of the tubing and all annuli of the well receiving the drilling waste, and as specified by the commission, surface pressures of the annuli of adjacent wells;

The disposal annulus is monitored continuously during disposal operations. The outer annuli and tubing of the annular disposal well are monitored periodically but not continuously. The outer annuli on wells are typically monitored with gauges and are not equipped for continuous electronic monitoring or recording.

SUGGESTED WORDING

(f)(2) the operator must continuously monitor the following during disposal operations: the types and volumes of each type of waste disposed, disposal rates, surface pressures of the disposal annulus of the well receiving the drilling waste, and as specified by the commission, surface pressures of the annuli of adjacent wells, and outer annuli and tubing of the disposal well.

DRAFT REGULATION 20 AAC 25.080 (f)(4)

(f)(4) the operator shall file with the commission a full report within 10 days of any incident requiring action under (f)(3) of this section; the report shall include a description of any actions taken, the effectiveness of those actions, and any additional necessary actions, and

CPAI invests significant time and effort to comply with reporting obligations, but believes that the revised wording proposed below reflects more realistically and accurately what type of report could be submitted within ten working days of an incident.

SUGGESTED WORDING

(4) the operator shall file with the commission an incident report within 10 working days of any incident requiring action under (f)(3) of this section. The incident report shall include a description of any actions taken and the effects or results of those actions, and

DRAFT REGULATION 20 AAC 25.080 (g)(1)

(g)(1) not later than 20 days after each calendar quarter during an authorized disposal operation period, file with the commission a Report of Annular Disposal (Form 10-423); and

Other AOGCC regulations, such as 20 AAC 25.070 - Records and reports, require that reports be filed within 30 days. Changing the reporting requirement in this section to 30 days would make it consistent with other AOGCC regulations and therefore easier to comply with. There does not appear to be any specific reasons why a shorter reporting period would be needed.

SUGGESTED WORDING

(g)(1) not later than 30 days after each calendar quarter during an authorized disposal operation period, file with the commission a Report of Annular Disposal (Form 10-423); and

DRAFT REGULATION 20 AAC 25.080 (i)(1)

(i)(1) drilling mud, drilling cuttings, reserve pit fluids, cement-contaminated drilling mud, completion fluids, formation fluids associated with the act of drilling a well permitted under 20 AAC 25.005, and any added water needed to facilitate the pumping of drilling mud or drilling cuttings;

CPAI believes the definition of drilling waste should be expanded to include cement rinsate, boiler blowdown fluids and welltest fluids. These types of waste are integral to the drilling and testing of a well and have been approved by the AOGCC for annular disposal in the past.

SUGGESTED WORDING

(i)(1) drilling mud, drilling cuttings, reserve pit fluids, cement-contaminated drilling mud, completion fluids, cement rinsate, boiler blowdown fluids, welltest fluids, formation fluids associated with the act of drilling a well permitted under 20 AAC 25.005, and any added water needed to facilitate the pumping of drilling mud or drilling cuttings;

We would be glad to discuss further any of the above comments with AOGCC staff.

Sincerely,



Roger D. (Dale) Summerlin

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114
Email: moniarty@aoga.org
Kara Moriarty, Deputy Director

June 25, 2009

Commissioner Dan Seamount, Chair
Alaska Oil and Gas Conservation Commission
133 W. 7th Avenue, Suite 100
Anchorage, Alaska 99501

AOGA Comments on Annular Disposal of Drilling Waste [20 AAC 25.080]

Dear Commissioner Seamount:

The 15 members of the Alaska Oil & Gas Association (AOGA) account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in the state. We appreciate the opportunity to comment on these proposed regulations.

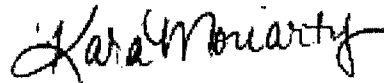
We appreciate the effort of the Alaska Oil and Gas Conservation Commission (AOGCC) and staff in rewriting the regulations regarding annular disposal of drilling waste; 20 AAC 25.080. Overall, the regulations are well written and in most cases provide clarity and consistency for industry. One example that AOGA finds especially helpful is in section 20 AAC 25.080 (e)(6). The current regulations required an estimate of maximum volumes of drilling waste slurry anticipated. This was a difficult estimate to determine in advance of disposal operations. Allowing industry to dispose of a maximum volume of 35,000 barrels will provide consistency and clarity. There are a few sections of the proposed readopted regulations that we have some questions and concern.

- 1) In section 20 AAC 25.080 (b)(4), the 1 year disposal window has changed from beginning on the date of disposal to the date of approval. Industry cannot always anticipate the exact start date of disposal, so allowing the disposal window to be only one year from the date of the approval may require an operator to submit unnecessary requests for an extension. AOGA would like to suggest that AOGCC consider revising this approval date to either coincide with a Permit to Drill (two years) or to return to the current language. Current language stated in (d)(2) says that "the commission will not authorize disposal of drilling waste for a period longer than one year through the annular space of a single well."
- 2) Proposed section 20 AAC 25.080 (e)(4) refers to shallow seismic information. AOGA would like to point out that shallow seismic data may not exist in some areas. If shallow seismic information is available, it may be from old data that was acquired focusing on deeper potentially productive horizons. Additionally, in some areas of the state like the Cook Inlet, it may become impossible to obtain updated seismic data due to future federal actions concerning beluga whales. AOGA very much supports the clause "where available" as proposed in this new section.

- 3) AOGCC is proposing new requirements in section 20 AAC 25.080 (e)(10)(B)(iv) to provide the results of an injectivity test below the outer casing shoe. AOGA does not have an issue with this new requirement, but feels the results of the test would be more beneficial if conducted upon commencement of disposal operations [20 AAC 25.080 (f)] as it will provide the AOGCC with better information if conducted at that time with the results reported in the quarterly report and not as part of the application for annular disposal. In order to test prior to receiving approval to inject drilling waste, operations would need to be conducted with water, which does not have the same injectivity characteristics as typical drilling waste, thereby making the results less accurate.
- 4) If the previous section is not moved to the operations sections of the proposed regulations [20 AAC 25.080 (f)], then AOGA has additional concerns with section 20 AAC 25.080 (e)(10)(C). If the injectivity test requirement is kept in the application section there is a procedural timing issue. Industry could not feasibly inject drilling waste material as they would not yet have approval and water injection would present an inaccurate result.
- 5) Section 20 AAC 25.080 (f)(1) refers to the maximum downhole disposal pressure. AOGA believes the proposed language is confusing and does not provide flexibility for an operator or the AOGCC with respect to establishing an adequate downhole disposal pressure. The reference to a formation integrity test may not provide an adequate pressure to dispose of drilling wastes. AOGA recommends the AOGCC maintain the current language, with the exception that formation integrity test be replaced with leak off tests. This would provide flexibility to both an operator and the AOGCC.
- 6) The final section AOGA would like to comment on is section 20 AAC 25.080 (g) regarding reporting. The new regulations propose a reporting requirement no later than 20 days after each calendar quarter. We suggest the period be 30 days, consistent with most other AOGCC regulatory reporting deadlines.

Please call Harry Engel, Chairman of the AOGA AOGCC Task Group at 564-4194 for any questions. Again, thank you for providing this opportunity to comment.

Sincerely,



KARA MORIARTY
Deputy Director

Cc: Commissioner Cathy Foerster
Commissioner John Norman

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ALASKA OIL AND GAS CONSERVATION COMMISSION

Before Commissioners: Daniel T. Seamount, Chairman
Cathy Foerster
John K. Norman

In the Matter of the Proposed)
Changes in the Regulations of)
the Alaska Oil & Gas)
Conservation Commission)
_____)

ALASKA OIL and GAS CONSERVATION COMMISSION
Anchorage, Alaska

October 15, 2009
9:00 o'clock a.m.

VOLUME I
PUBLIC HEARING

BEFORE: John K. Norman, Acting Chairman
Cathy Foerster, Commissioner

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1 testify this morning and so I will remind all of you that when
2 you do testify you'll need to come forward and speak into the
3 microphones. There are two microphones, they're both affixed
4 together. One is for purposes of amplification and the other
5 is for purposes of facilitating the court reporter's work in
6 creating a transcript.

7 It is the Commission's practice to swear witnesses that do
8 testify and we will follow that practice. Also if you intend
9 to be testifying as an expert witness on a particular subject
10 then we ask that you briefly explain your background and your
11 experience so that we will be able to gauge whether you do fall
12 into the category of an expert witness.

13 The Alaska Oil & Gas Conservation Commission is proposing
14 to amend Title 20, Chapter 25, Section 080 of the
15 Administrative Code dealing with annular disposal of waste and
16 also the section of the code dealing with suspended wells, that
17 being 20 AAC 25.110. On May 22nd, 2009 the Commission first
18 published a notice of proposed changes to Section 080. On
19 September 1st of 2009 because of substantive changes and edits
20 that were done to the proposed changes, the Commission
21 renoticed the proposed regulations with the intention of
22 revising -- fully revising which would be repealing and
23 readopting Section 20 or correction, Title 20, 25.080 of the
24 Alaska Administrative Code. The specific changes will be
25 addressed later by staff. In addition, the Commission as

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1 indicated proposed to amend 20 AAC 25.110, subsection (n) which
2 deals with suspended wells so as to add an opportunity for
3 applicants to obtain variances and waivers.

4 The notice of this hearing has been duly published in the
5 Anchorage Daily News. The file does contain an affidavit of
6 publication, any persons desiring to see it can see the
7 Commission's Special Assistant. Also notice of this hearing
8 has been posted on the State of Alaska online notices website
9 as well as on the AOGCC's own website.

10 This hearing is -- will be conducted in accordance with
11 the Commission's general hearing regulations and in accordance
12 with the Alaska Administrative Procedures Act, Alaska Statute
13 44.62.

14 We have a sign in sheet available. If any of you are here
15 and you wish to testify and you haven't yet signed the sheet,
16 see the Commission's Special Assistant who is seated in the
17 rear of the room.

18 I will ask now if Commissioner Foerster has any
19 preliminary comments before we proceed?

20 COMMISSIONER FOERSTER: No. Thanks for asking.

21 CHAIRMAN NORMAN: Very well. We'll first take up the
22 proposed amendment to the suspended well regulation. That's
23 Section 110, Subsection (n) and we will have discussion on that
24 and consider any comments. And then following that we will
25 next take up the proposed amendment to the annular disposal

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1 regulation.

2 Dr. Aubert, I believe you will be presenting for the
3 Commission, is that correct? Could you come forward then and
4 for the record, please, state your name and your position here
5 with the Commission.

6 WINTON AUBERT

7 called as a witness on behalf of the AOGCC, testified as
8 follows on:

9 DIRECT EXAMINATION

10 DR. AUBERT: For the record I'm Winton Aubert, Senior
11 Engineer on Commission Staff.

12 CHAIRMAN NORMAN: You may go ahead and proceed with an
13 explanation as to what has brought about the perceived need for
14 this change.

15 DR. AUBERT: Our first proposed change is to Regulation
16 Section 110 as Commissioner Norman elucidated, entitled
17 Suspended Wells. This proposed change will allow the
18 Commission explicit flexibility to vary or waive the existing
19 well suspension requirements. The explicit flexibility was we
20 believe inadvertently removed from then existing regulations
21 during a 2008 rewrite of Section 110. We believe that enacting
22 this proposed change would impose no additional regulatory
23 burden on industry.

24 Does the panel have questions or further discussion?

25 CHAIRMAN NORMAN: Commissioner Foerster?

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1 COMMISSIONER FOERSTER: I have none.

2 CHAIRMAN NORMAN: Very well. I think this appears to be a
3 very straightforward change affecting only the very last
4 subsection of the regulations. And as I understand your
5 explanation it adds the opportunity for applicants to obtain
6 waivers and variances under this particular subsection. I do
7 not and have not seen in the file any specific comments or
8 opposition to this. If there are any persons that filed
9 particularly any opposition we would ask you to let us know
10 since the record doesn't reflect any written comments on this.

11 Very well. Thank you, Dr. Aubert. I'll ask now are there
12 any other persons present who wish to testify on this proposed
13 amendment to Section 110 of the regulations? Okay. For the
14 record the Chair sees no one asking to be recognized and
15 accordingly we will take this then as submitted to the
16 Commissioners and a decision will be forthcoming, probably at
17 our next public meeting.

18 We'll next turn to the subject of an amendment to
19 Subsection 080. Commissioner Foerster, do you have any
20 preliminary comments regarding this section?

21 COMMISSIONER FOERSTER: I have comments, but I'll save
22 them for later.

23 CHAIRMAN NORMAN: Very well. Dr. Aubert, I believe you
24 are also presenting on this section so, please, proceed.

25 DR. AUBERT: Our proposed repeal and readoption of Section

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1 080 entitled Annual Disposal of Drilling Waste, is upon the
2 Commission's motion to clarify the language and improve the
3 logical order of the existing regulation. Before the
4 Commission is actually a renoticed proposal that we believe
5 addresses the U.S. Environmental Protection Agency's concern
6 that AOGCC regulations not conflict with federal law.

7 Proposed changes to the existing Section 080 include
8 explicit requirements for limiting the time duration of actual
9 annular disposal to 90 days within a one year approval window,
10 for a receiving well schematic, for plats of all disposal
11 interval penetrations within the one quarter mile area of
12 review around the receiving well, for lists of well operators
13 and surface owners within the quarter mile area review, for a
14 shallow seismic data interpretation, for proposed waste slurry
15 density, for results of a fluid injectivity test, for a
16 salinity determination of all waters penetrated by the
17 receiving wellbore, for continuous monitoring of physical
18 injection parameters, for unusual incident report filing within
19 10 working days, and for modified filing timing for the report
20 of annular disposal.

21 Further proposed changes to the existing Section 080 are
22 inclusion of explicit flexibility for Commission approved
23 variances and waivers and for waste injection into freshwater
24 the requirement of a U.S. EPA aquifer exemption.

25 Finally we propose recognizing the Commission's authority

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1 to regulate annular disposal in water wells associated with oil
2 or gas exploration and production, such as water source wells.
3 This water well oversight was excluded from Commission
4 responsibility in the 1999 regulations.

5 With respect to aspects of our proposed regulation changes
6 falling under Commission oversight, we expect a relatively
7 minor change in regulatory burden will result. We're not
8 prepared to comment at this time on the regulatory burden
9 effect of our proposed EPA oversight provision.

10 Does the panel have questions or discussion.

11 CHAIRMAN NORMAN: Commissioner Foerster.

12 COMMISSIONER FOERSTER: I don't have any questions and I'm
13 going to hold my comments for later.

14 CHAIRMAN NORMAN: I think the changes that have been set
15 forth, noticed and then as indicated renoticed, they are
16 understood. Some of this -- the renoticing is in reaction to
17 correspondence and comments received from the EPA, federal EPA.

18 I think, Dr. Aubert, at this point if you would remain
19 available I think we'll now go to public comment.

20 Are there members of the public -- I should indicate for
21 the record that we have received written comments from both the
22 Alaska Oil and Gas Association and ConocoPhillips Alaska, Inc.,
23 concerning the proposed amendment to the annular disposal
24 drilling waste regulations. Those comments have been reviewed
25 by the Commissioners and you may -- so it won't be necessary

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1 for you to formally introduce those as they're already in the
2 record. Are there any persons now who wish to offer testimony
3 or comments?

4 MS. MORIARTY: We'll be a team.

5 CHAIRMAN NORMAN: Pardon.

6 MS. MORIARTY: We're a team.

7 CHAIRMAN NORMAN: Okay. Why don't you -- why don't --
8 let's have the team come forward.

9 MS. MORIARTY: Good morning. For the record my name is
10 Kara Moriarty and I serve as the Deputy Director of the Alaska
11 Oil and Gas Association. And on behalf of AOGA and our AOGCC
12 Task Group we appreciate the ability to provide written comment
13 as well as testify today on the proposed regulations as
14 Commissioner Norman stated, 20 AAC 25.080.

15 CHAIRMAN NORMAN: Ms. Moriarty, without interrupting you I
16 think what we'll do is swear you both just.....

17 MS. MORIARTY: Okay.

18 CHAIRMAN NORMAN:to get that done. If you'd both
19 raise your right hands.

20 (Oath administered)

21 MS. MORIARTY: Yes.

22 MR. ENGEL: Yes, I do.

23 CHAIRMAN NORMAN: Thank you. Now please proceed, Ms.
24 Moriarty.

25 KARA MORIARTY

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1 called as a witness on behalf of AOGA, testified as follows on:

2 **DIRECT EXAMINATION**

3 MS. MORIARTY: I will be here in the capacity as AOGA
4 staff to introduce our comments that you have received last
5 week as well as introduce Harry Engel, our Chair of our AOGCC
6 task group. With us in the room we also have Randal Buckendorf
7 from BP. He has been with AOGA in various capacities on
8 several of our committees to provide legal input and guidance.
9 And so for the legal aspects we also have Randal in the room.

10 As you know AOGA represents 15 members that account for
11 the majority of our -- of all the oil and gas exploration,
12 development, marketing, refining and transportation activities
13 in the state. We often get this question so I'll answer it
14 before we get the question, we had several of our member
15 companies participate in the compilation of these comments,
16 both from Cook Inlet and the North Slope. We have a couple
17 representatives in the room today, but we did have active
18 participation from Marathon and Chevron and they were unable to
19 join us today. But I just wanted to let you know we got their
20 input from a Cook Inlet perspective as well.

21 So with that I will turn it over to Harry to give the more
22 technical background and share our comments.

23 **HARRY ENGEL**

24 called as a witness on behalf of AOGA, testified as follows on:

25 **DIRECT EXAMINATION**

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1 MR. ENGEL: Good morning, Commissioner Norman,
2 Commissioner Foerster. Good to see you again.

3 CHAIRMAN NORMAN: Nice to see you, Mr. Engel.

4 MR. ENGEL: My name is Harry Engel for the record. My day
5 job is engineering team leader with BP in our Alaska drilling
6 and wells organization. This morning I'm representing AOGA as
7 the chairman of the AOGCC Task Group.

8 Would you like to go through my experience, Commissioner
9 Norman?

10 CHAIRMAN NORMAN: Please.

11 MR. ENGEL: Okay.

12 CHAIRMAN NORMAN: Just for the record briefly. You're
13 well known to the Commission, but for this record in this
14 particular hearing we do -- would like to have your background
15 in the record.

16 MR. ENGEL: Yes. I have 29 years of experience, oil and
17 gas experience, with a variety of different roles I've had,
18 including drilling engineering, well site leader roles and some
19 other health and safety management positions within the oil and
20 gas industry. I have worked in most areas in Alaska, also in
21 the Western U.S. and I've had some temporary assignments in --
22 some foreign assignments in China and Indonesia. And I also
23 have two undergraduate engineering degrees.

24 CHAIRMAN NORMAN: Very well. And I think you have
25 previously been qualified by the Commission a number of times.

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1 Commissioner Foerster, do you find the witness acceptable?

2 COMMISSIONER FOERSTER: Technically.

3 CHAIRMAN NORMAN: Please proceed, Mr. Engel.

4 MR. ENGEL: Very good. Before I begin with the -- my
5 comments around the annular disposal, I would like to just make
6 a comment that we do support the language that the Commission
7 included in Section 20 AAC 25.110 regarding suspended well
8 regulations allowing for a variance if warranted and necessary.
9 We do think that's a good addition to the regulations.

10 I would also like to make a comment regarding how much we
11 appreciate the support we have from your staff here, helping
12 understand the background and the rationale behind the
13 regulations regarding annular disposal. It was very helpful
14 for us to get that background to help us prepare for our
15 comment that we submitted last week. So I do appreciate that.

16 One thing I wanted to note for the record, as Kara
17 mentioned, we submitted comments last week in a letter dated
18 October 9th. And in that we have two attachments. There's one
19 here I want to note on the October 9th letter at the bottom we
20 mentioned EPA letters dated 1980 and 1987. That should read
21 1988 and 1987. So please note that for the record.

22 Regarding the proposed regulation, there's one area that
23 we'd like to comment on and that is regards to the modification
24 of the aquifer exemptions for disposal of drilling waste. This
25 new requirement is found in Section 25.080(d) as in delta.

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1 AOGA committee members believe that this part of the regulation
2 is inconsistent with the documents we attached to our letter
3 dated October 9, that being the memorandum of agreement between
4 the EPA and the AOGCC dated 1991 and also the EPA letters
5 starting with one dated January 8, 1988.

6 Based on information provided in those two documents, AOGA
7 members recommend that that section of the regulation -- we
8 recommend that the Commission consider deleting that proposed
9 regulation, Section (d) in 080. And we have three main reasons
10 why we request the Commission consider deleting that part of
11 the regulation. And the first one is that we believe that the
12 -- as stated in the documents before, that these activities are
13 not regulated under UIC regulations by the EPA. And the second
14 reason is that we believe that timing delays in obtaining an
15 aquifer exemption from the EPA could severely impact an
16 operator who plans to work and seek this kind of approval from
17 the EPA. The third point is regarding the implications that
18 could be imposed for exploration activities that take place
19 especially in remote areas of Alaska such as the Alaska
20 Petroleum Reserve and Foothills Region of the North Slope, also
21 in the Cook Inlet. Unlike many parts of the country these
22 drilling areas, proposed prospects, are remote, isolated areas
23 with no infrastructure, roads or permanent facilities. Without
24 having an aquifer exemption in place in a timely manner for
25 these regions, proposed exploration activities could be

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1 impacted, delayed and subject to unnecessary cost associated
2 with waiting for EPA approval for disposal of drilling waste in
3 this area.

4 So basically that's our comment today is around the
5 addition of the changes regarding the requiring an operator to
6 go through EPA to get an aquifer exemption. We feel that the
7 current system as identified in the MOA dated 1991 has been
8 working very well for us and we don't understand the background
9 and the reason for changing that current MOA or just even being
10 changed. So that would help us understand the change to the
11 regulation if the Commission wouldlike to maybe give us some
12 background on that change that we're seeing today with the
13 proposed regulations.

14 CHAIRMAN NORMAN: Certainly. Your -- just a follow-up
15 question though. Your only objection right now is to that
16 particular provision?

17 MR. ENGEL: That's correct.

18 CHAIRMAN NORMAN: And secondly you're not knowledgeable of
19 the comments by EPA related to this particular section?

20 MR. ENGEL: We understood there was some comments from
21 EPA, but we weren't -- the details around those comments in
22 relationship to the current MOA, the new regulations, were not
23 clear to us.

24 CHAIRMAN NORMAN: Okay. And then finally at this point
25 you believe that this doesn't fall under the UIC program, that

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1 enacted -- your second point was that if enacted it will cause
2 significant timing delays and thirdly it will create problems
3 for operations in remote areas.....

4 MR. ENGEL: That's correct.

5 CHAIRMAN NORMAN:of Alaska. Okay.

6 MR. ENGEL: That's correct. And, Commissioner Norman,
7 those comments are based upon the current MOA and the EPA
8 documents that have articulated that view for over 20 years.

9 CHAIRMAN NORMAN: Commissioner Foerster?

10 COMMISSIONER FOERSTER: Now's as good as anytime to make
11 my comment. The Commission -- and I had to write it down so I
12 wouldn't deviate from it.

13 The Commission appreciates that this change could prove
14 cumbersome and thus hamper exploration and development of
15 Alaska's hydrocarbon resources. And as much as I'd like to say
16 more, for a change I will take the advice of my mother who said
17 if you can't say something nice don't say anything at all.
18 Thus I will bite my tongue and say no more.

19 All right. That was my little bit of drama.

20 MS. MORIARTY: Commissioner Norman, if you don't mind I
21 believe Mr. Buckendorf would like to add a few more comments on
22 to that section.....

23 CHAIRMAN NORMAN: Please.

24 MS. MORIARTY:if we don't mind.

25 COMMISSIONER FOERSTER: And somewhere in this process is

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1 there anyone from the EPA in this room?

2 MR. MAYERS: I am.

3 COMMISSIONER FOERSTER: I think it would be very
4 meaningful to address the questions that BP has asked of the
5 EPA if you're willing and able to address those questions
6 because.....

7 MR. MAYERS: Well, I am here strictly as an observer, I'm
8 not qualified to comment on those.

9 COMMISSIONER FOERSTER: Okay. But did you take the
10 questions down, do you remember what the questions are because
11 I think it would be at a minimum courteous.....

12 MR. MAYERS: Yes.

13 COMMISSIONER FOERSTER:to provide a response to
14 those questions.

15 MR. MAYERS: Absolutely I did.

16 COMMISSIONER FOERSTER: Thank you.

17 MR. MAYERS: Welcome.

18 CHAIRMAN NORMAN: Just so we keep the record clear, the
19 exchange that occurred just now between Commissioner Foerster
20 and the representative of EPA, you are Mr. Tim Mayers, is that
21 correct, sir?

22 MR. MAYERS: Yes, sir.

23 CHAIRMAN NORMAN: Okay. M-a-y-e-r-s of the EPA. And
24 would you mind just stating -- I understand that you're here as
25 an observer and not to testify, but what is your position?

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1 MR. MAYERS: My position is environmental scientist at the
2 EPA here in Anchorage. And I've also initiated some UIC
3 inspections shadowing our UIC expert in Seattle.

4 CHAIRMAN NORMAN: Very well. Thank you.

5 Mr. Buckendorf, you also are well known to the Commission,
6 but if you would just briefly state your position?

7 RANDAL BUCKENDORF

8 called as a witness on behalf of AOGA, testified as follows on:

9 DIRECT EXAMINATION

10 MR. BUCKENDORF: Commissioners, my name is Randal
11 Buckendorf, I'm an attorney with BP in Alaska and I've been
12 licensed to practice law in this state for nearly 16 years now.
13 I've worked in the oil and gas industry since 1997 when I began
14 my position as the environmental attorney with ARCO and have
15 now provided legal advice to ARCO, Phillips, ConocoPhillips and
16 BP on every field on the North Slope of Alaska.

17 As Kara mentioned, I've also largely by default been the
18 ad hoc chairman of the legal subcommittee for most of those 12
19 years.

20 We -- with respect to these particular regulations I have
21 been providing legal advice to all of the companies I mentioned
22 that entire time frame on the regulation of underground
23 injection of waste under the Safe Drinking Water Act, under the
24 Resource Conservation Act, both at the federal level and with
25 the Commission's regulations. I also spent two years working

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1 with the Commission from -- in 1998 and 1999 with many members
2 that are in this room on the negotiation or renegotiation of
3 the memorandum of agreement. We were trying to update that at
4 that time frame. That stalled and it's still in effect from
5 the original date.

6 We understand from conversations with the Commission that
7 Subsection (d), drilling waste may not be disposed of into any
8 freshwater unless the operator applies for and the United
9 States Environmental Protection Agency grants an aquifer
10 exemption resulted from comments of some nature from EPA. We
11 looked for written comments, could not find them. My
12 understanding is that written comments were not provided. I
13 think Mr. Aubert just confirmed that. It is hard for us to
14 address concerns in the nature of verbal comments we're not
15 aware of those comments. Had written comments been provided by
16 EPA we would be better able to actually look at and respond to
17 those comments. I just state that for the record, we cannot
18 reply to comments that are unknown to us.

19 So the comments we provided basically and I have many
20 other binders of similar guidance documents and comments, the
21 regulation of oil and gas drilling materials from 1984 to 1988
22 was in flux. Congress in enacting the Resource Conservation
23 Recovery Act asked, basically demanded that EPA develop and
24 analyze an extensive document, and this is volume one of five
25 of that document, on a report to Congress on the management of

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1 waste from exploration, development and production of oil and
2 gas and geothermal which was a subset of that.

3 That review took many years and it was probably the most
4 critical review for the oil and gas industry that was going on
5 at that particular time frame. Because the single most
6 important issue being addressed at the time was whether oil and
7 gas waste, drilling waste, drilling muds, were exempt from
8 Subtitle C of the Resource Conservation Recovery Act as a solid
9 waste or as a hazardous waste. It was -- it probably was then
10 and still is now the most critical analysis to the oil and gas
11 industry in the history of U.S. EPA oversight of our industry.

12 That -- this document in 1987 also accompanied a review
13 and dialogue that had been going on for many years between the
14 North Slope or Alaska oil and gas operators, the Commission and
15 EPA on basically that same issue, the regulation of drilling
16 waste with respect to underground injection and solid and
17 hazardous waste.

18 What we provided is an example and a clarification of the
19 fact that in its reports to Congress EPA clarified that --
20 confirmed which waste under RCRA were exempt and which were
21 nonexempt. It confirmed that drilling fluids, produced waters
22 and other waste intrinsically associated with, and that's
23 important, with the exploration, development or production of
24 crude oil or natural gas was -- those are exempt under RCRA
25 Subtitle (c).

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1 That is also critical when looking at the Safe Drinking
2 Water Act. The Safe Drinking Water Act regulates the
3 underground injection of wastes. The discussions that were
4 ongoing in 1987 and 1988 between the industry, the Commission
5 and EPA was whether or not the annular injection of drilling
6 muds and cuttings into the annulus of a well was regulated
7 under either RCRA or the Safe Drinking Water Act. It was
8 important because we were trying to get away from the putting
9 in place reserve pits and that's been hugely effective and we
10 were confirming that we did not need to seek Class II injection
11 wells authorizations basically for the very drilling of a well
12 if we were going to pump mud and cuttings back down the annulus
13 of the well.

14 And EPA -- the issue in the state of Alaska was being
15 worked in some of the letters we've provided, was largely led
16 by an ARCO attorney by the name of Bill Christen (ph), William
17 T. Christen. I'm sure Commissioner Foerster and Commissioner
18 Norman remember him. He came to ARCO from EPA and he led the
19 effort and he was adamant, he had worked on this document, that
20 the regulation or that there was no regulation under either the
21 Safe Drinking Water Act or RCRA of annular injection. And
22 that's what EPA agreed. And the front cover letter of this is
23 -- and I will read it for the record.

24 As you know, there's been a need for clarification as to
25 whether annular injection of drilling muds is covered under the

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1 underground injection control UIC program and that's of the
2 Safe Drinking Water Act. Since the issue has national
3 implications we contacted headquarters for guidance. Basically
4 the guidance states that annular injection of drill muds into
5 an annulus from one or more wells, either at once or over a
6 period of time is not covered by the UIC program. This
7 guidance reenforces the Alaska Oil and Gas Conservation
8 Commission position on the subject.

9 Almost immediately after this 1988 opinion and
10 confirmation from EPA that, in fact, yes, the injection -- the
11 regulation of annular pumping which was the term used at that
12 time, was not regulated under the Safe Drinking Water Act,
13 immediately the 1986 MOA between AOGCC and EPA was amended, it
14 added a new paragraph in. It was the only addendum -- it was
15 the only addition at that time in 1988. Basically what became
16 paragraph 10 of the current MOA, that the annular injection or
17 annular pumping of -- it's now paragraph 12 in the current, the
18 pumping away of drilling muds and precipitation from reserve
19 pits into an exploration or stratigraphic test well into the
20 annulus as approved in accordance with Commission's regulation,
21 is an operation incidental to the drilling of a well and is not
22 a disposal operation subject to regulation as a Class II well.
23 That's been the case for 21 years now.

24 And what the industry has long believed those 21 years is
25 that EPA determined then that the annular injection of drilling

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1 muds and cuttings was not a regulated activity under the Safe
2 Drinking Water Act. Basically if it's not a regulated activity
3 then any activities associated with that don't fall under EPA
4 authorizations for the Safe Drinking Water Act, the statute,
5 the regulations that exist that with it or, you know, any of
6 their authorizations and that has been the case for 21 years
7 now. We don't understand EPA's concern over that, we weren't
8 able to, you know, look at any comments on that to be able to
9 address that. If the agency is now rethinking whether the
10 injection of annular muds and cuttings is now subject to Safe
11 Drinking Water Act authority or their regulations, we -- we're
12 interested in that not just in Alaska, but, you know, the
13 entire country.

14 I also have one other issue with Subsection (d) here and
15 that is essentially a delegation by a state agency to enact --
16 to approve an activity by a federal agency. I mean basically
17 it gets to a delegation of authority from a state agency that
18 was directed by, you know, Alaska Legislature to look at taking
19 over the entire authorization of the Safe Drinking Water Act
20 program in Alaska now five years ago and directing industry for
21 the first time in 21 years to suddenly go to EPA for an
22 authorization for a program that it acknowledges it doesn't
23 regulate.

24 So that's basically -- I mean, that's the basic tenants of
25 our concern. And we don't think it's supported by law

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1 regardless of the comments that may have come in. It would
2 have been helpful to have written comments to be able to
3 analyze, we didn't have the benefit of them. Thank you.

4 CHAIRMAN NORMAN: Thank you, Mr. Buckendorf. Commissioner
5 Foerster, any questions?

6 COMMISSIONER FOERSTER: I don't have any questions for Mr.
7 Buckendorf, but I'm going to have another question for our EPA
8 rep and the AOGCC staff. Would it -- is there any way that we
9 could reconstruct the comments that EPA provided so that should
10 any of the companies that are affected by this rule change
11 desire to pursue it further they can and that they're not
12 hampered by failure to have the facts. So I'm going to charge
13 you guys with that question, is that something that can be
14 done?

15 MR. MAYERS: Tim Mayers with EPA. I will certainly do
16 what I can to track those down. I don't have access to those,
17 but I will certainly do what I can to find them.

18 COMMISSIONER FOERSTER: Okay. And, Mr. Aubert and Mr. --
19 Dr. Aubert and Mr. Regg, I know it puts a monkey on your back
20 to recreate what somebody said to you, but I want to put that
21 monkey on your back to get with the people at EPA that you had
22 discussions with and get them to agree to some reconstruction
23 of the conversations. Can you do that for me?

24 MR. REGG: (Indiscernible - away from microphone).....

25 COMMISSIONER FOERSTER: Okay.

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1 DR. AUBERT: I might address some of that to Assistant
2 Attorney General Ballantine as he was involved with the
3 direct.....

4 COMMISSIONER FOERSTER: Okay. That's great.

5 DR. AUBERT:conversation with EPA also.

6 COMMISSIONER FOERSTER: Okay. I think that's appropriate.

7 CHAIRMAN NORMAN: Just a footnote to that. I think the
8 obvious question that's been identified here is that there is a
9 glaring gap in the record. And I do think that if these
10 regulations are to be promulgated with this there needs to be
11 something in the record. That's just my feeling right now that
12 this has brought into sharper focus, either in the form of some
13 testimony by someone authorized to deliver it on the part of
14 EPA or certainly a letter from an authorized official at EPA
15 advising us of this. So right now the record is silent and I
16 think industry and the people that have testified are really
17 somewhat in the dark about what their hurdle is to respond to.

18 And what I'd like to suggest if there's no objection,
19 Commissioner Foerster, is that we take perhaps about a five to
20 seven minute recess at this point and then we'll come back on
21 the record and see where we go from here.

22 COMMISSIONER FOERSTER: I think that's appropriate.

23 CHAIRMAN NORMAN: We're going to recess for about -- let's
24 say 10 minutes.

25 (Off record)

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1 (On record)

2 CHAIRMAN NORMAN: Back on the record at the hour of 9:50
3 a.m. The Commission has taken a 10 minute recess. Mr.
4 Buckendorf, could you return so we have a -- perhaps a question
5 or two. Commissioner Foerster.

6 COMMISSIONER FOERSTER: I had a quick question. In your
7 comments you mentioned national implications. Could you
8 explain what you mean by national implication?

9 MR. BUCKENDORF: Well, not knowing the nature of the
10 concern, if now the EPA is reconsidering its report to Congress
11 and whether or not drilling muds are regulated under RCRA,
12 that's huge. Or whether it's reconsidering whether the annular
13 injection, annular pumping of muds and cuttings is now
14 regulated under the Safe Drinking Water Act, that moves beyond
15 just Alaska, beyond the Alaska North Slope and, you know, to
16 the entire industry. We don't know, there's no written
17 comments in the record, as Mr. Norman stated it's hard for us
18 to hypothesize on what might be under consideration.

19 COMMISSIONER FOERSTER: Thank you for that clarification.
20 That's it.

21 CHAIRMAN NORMAN: That's it. Okay. I don't think, Mr.
22 Buckendorf, we have any more questions of you right now, but I
23 would ask if you'll remain. And let me ask are there any
24 others present who wish to offer any comments or testimony to
25 the Commission? Right. The record should reflect that the

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1 Chair sees no one asking to be recognized.

2 What I will propose here and then Commissioner Foerster
3 can indicate whether she concurs, is that as to Section 110 the
4 record does appear to be complete on that. We've received
5 comments, it's been duly noticed so I'm going to suggest that
6 first that as to that particular section we consider that
7 submitted to the Commission, we will rework it and at our next
8 public meeting then we will take some action on that one way or
9 the other.

10 COMMISSIONER FOERSTER: I agree.

11 CHAIRMAN NORMAN: Then turning now to Section 080, annular
12 disposal of drilling waste, it is apparent that the record is
13 not complete on this. And consequently what the Commission
14 will do, which I would propose is that we extend the period of
15 comment for an additional 30 days and specifically the
16 Commission will request written comments from the EPA setting
17 forth their position on this. At the end of that 30 day period
18 the Commission will then renotice this particular Section 080,
19 and the written comments, if any, submitted to the EPA will be
20 available for others to look at. In the meantime if any other
21 persons wish to submit additional comments you may do so. A
22 new notice will be published and then following that the
23 Commission will take action with that particular omission from
24 the record hopefully being completed.

25 Commissioner Foerster, is that agreeable with you?

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COMMISSIONER FOERSTER: That's brilliant.

CHAIRMAN NORMAN: Very well. Then if -- let me ask one final time then if -- you've heard the position the Commission will be going forward, our next public meeting on Section 110 is on the last Wednesday which will be October the 28th of this month. So I would anticipate probably that as a matter of routine business the Commission will bring that up and vote it in if any of you are interested. And as to the remainder we'll proceed as I discussed with inviting comments from the EPA, leaving the record open for an additional 30 days and then at the close of that 30 day period it will be renoticed.

If there are no further comments then we will stand adjourned at the hour of 10:00 o'clock a.m.

(Recessed - 10:00 a.m.)

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C E R T I F I C A T E

UNITED STATES OF AMERICA)
) ss.
STATE OF ALASKA)

I, Rebecca Nelms, Notary Public in and for the State of Alaska, residing at Anchorage, Alaska, and Reporter for R & R Court Reporters, Inc., do hereby certify:

THAT the annexed and foregoing PUBLIC HEARING was taken by Lynn Hall on the 15th day of October, 2009, commencing at the hour of 9:00 a.m., at the Alaska Oil and Gas Conservation Commission, Anchorage, Alaska;

THAT this Hearing Transcript, as heretofore annexed, is a true and correct transcription of the proceedings taken and transcribed by Lynn Hall;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 20th day of October, 2009.

Notary Public in and for Alaska
My Commission Expires: 10/10/10

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NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE
ALASKA OIL AND GAS CONSERVATION COMMISSION

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080) and suspended wells (20 AAC 25.110). On May 22, 2009, AOGCC published a notice of proposed changes to 20 AAC 25.080; because of substantive changes to the proposed changes, AOGCC is re-noticing them, fully revising (*i.e.*, repealing and readopting) 20 AAC 25.080 as follows:

1. modify the aquifer exemption for the disposal of drilling waste to require that the operator apply for and the U.S. EPA grant the exemption;
2. modify the information that must be submitted with an annular disposal application;
3. modify the limitations and conditions applicable to annular disposal;
4. add a provision for requesting variances and waivers; and
5. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

In addition, AOGCC proposes to add to 20 AAC 25.110(n) the opportunity for variances and waivers.

Written comments on the proposed regulation changes, including the potential costs of compliance, may be submitted to AOGCC at 333 West 7th Ave., Suite 100, Anchorage, AK 99501. The comments must be received by 5:00 p.m. on October 9, 2009.

Written and/or oral comments may be submitted at a hearing to be held on October 15, 2009, at 333 West 7th Ave., Suite 100, Anchorage, AK. The hearing will be held from 9:00 a.m. to 11:00 a.m. and might be extended to accommodate those present before 9:30 a.m. who did not have an opportunity to comment.

If, because of a disability, a special accommodation is needed to participate in this process, please contact the Commission's Special Assistant, Jody Colombie, at 907-793-1221; 333 West 7th Ave., Suite 100, Anchorage, AK 99501; or jody.colombie@alaska.gov. Ms. Colombie must be contacted by October 6, 2009, at 5:00 p.m. to ensure that necessary accommodations can be provided.

The proposed regulation changes are available at www.aogcc.alaska.gov or by contacting Ms. Colombie at the phone number, physical address, or e-mail address above.

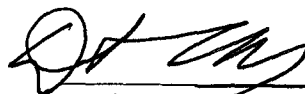
After the public comment period ends, AOGCC will adopt, without notice, these or other provisions dealing with the same subjects or decide to take no action. The language of the proposed and final regulations may be different. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments are subject to public inspection.

Statutory Authority: AS 31.05.030; AS 31.05.040; AS 31.05.095

Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030; AS 31.05.040; AS 31.05.095


Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 9/11/9



Daniel T. Seamount, Jr.
Chair

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Oil and Gas Conservation Commission.
2. General subject of regulations: annular disposal of drilling waste and suspended wells.
3. Citation of regulations: 20 AAC 25.080 and 20 AAC 25.110(n).
4. Reason for the proposed action: update the annular disposal of drilling waste regulations and add opportunities for variances and waivers to the suspended wells regulations.
5. Program category and BRU affected: Alaska Oil and Gas Conservation Commission.
6. Cost of implementation to the state agency: zero.
7. The name of the contact person for the regulations:
Name: Daniel T. Seamount, Jr.
Title: Chair
Address: 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501
Telephone: (907) 793-1221
E-mail: jody.colombie@alaska.gov
8. The origin of the proposed action: agency staff.
9. Date: September 1, 2009.
10. Prepared by: 
Jody J. Colombie
Alaska Oil and Gas Conservation Commission
(907) 793-1221

20 AAC 25.080 is repealed and readopted to read:

20 AAC 25.080. Annular disposal of drilling waste

(a) Drilling waste, as defined in (i) of this section, may not be disposed through the annular space of a well unless authorized by the commission under this section. The operator of a well for which a permit to drill has been issued by the commission may request authorization to dispose of drilling waste through the well's annular space by filing an Annular Disposal Application (Form 10-403AD), including all the information required under (e) of this section.

(b) Annular disposal of drilling waste will be limited to

- (1) 35,000 barrels through the annular space of a single well;
- (2) wastes generated by drilling operations on the same drill pad or platform as the disposal annulus;
- (3) 90 days of actual disposal within a one-year approval period; and
- (4) a one-year period beginning on the date of approval of the Annular Disposal Application.

(c) Drilling waste must not

- (1) migrate from the approved disposal interval;
- (2) impair the mechanical integrity of any well; or

- (3) damage a producing or potentially producing formation or impair the recovery of oil or gas.
- (d) Drilling waste may not be disposed of into any freshwater unless the operator applies for and the United States Environmental Protection Agency grants an aquifer exemption.
- (e) An application for authorization under this section will not be complete unless it includes or references (*i.e.*, if the information is on file with the commission) the following information:
 - (1) a schematic of the well proposed to receive the drilling waste;
 - (2) lists and plats identifying
 - (A) all wells and well branches that penetrate the disposal interval within a one-quarter mile radius of the surface casing shoe of the disposal annulus; the well paths of all wells and well branches must be shown on the plat, and the planar distances from all wells and well branches to the surface casing shoe of the disposal annulus must be provided;
 - (B) all publicly recorded water wells within a one-mile radius of the surface location of the well that would receive the drilling waste; and
 - (C) all operators and surface owners within a one-quarter mile radius of the surface casing shoe of the disposal annulus;
 - (3) the measured and true vertical depths at the base of any freshwater aquifer(s) and permafrost;

- (4) an assessment of shallow seismic information in the area of the receiving well, where available, with an interpretation of faults and other anomalies;
- (5) a stratigraphic description of and off-set well log(s) across the disposal interval showing the drilling waste receiving and confining intervals;
- (6) a description of the drilling waste, including its composition and well source, and the identification of any waste that falls within (i)(3) of this section;
- (7) the estimated density of the drilling waste slurry;
- (8) the anticipated maximum pressure at the surface and at the surface casing shoe during the disposal operations; the calculations showing how the surface casing shoe pressure value was determined must be provided;
- (9) information demonstrating that the inner and outer casing strings have sufficient collapse and burst strength to withstand the maximum anticipated pressure of disposal operations;
- (10) information demonstrating that the surface casing shoe
 - (A) is set below the base of permafrost and any freshwater; and
 - (B) is adequately cemented to provide isolation; the information required under this sub-section must include
 - (i) casing and cementing records for both casings forming the annulus;

- (ii) casing and cementing records for all wells that penetrate the disposal interval within a one-quarter mile radius of the surface casing shoe;
 - (iii) the results of a leak-off test conducted below the surface casing shoe, or, if leak-off is not attained, the results of a formation integrity test conducted below the surface casing shoe;
 - (iv) the results of an injectivity test conducted below the surface casing shoe; and
 - (v) if required by the commission, a cement quality or other log(s);
- (11) a list and description of any uncemented significant hydrocarbon zones within the disposal annulus;
- (12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;
- (13) if drilling waste was previously disposed of through the annular space of the well, the dates of the disposal operations, the types and volumes of each type of waste disposed of, and the sources of the waste; and
- (14) additional information and analyses required by the commission.
- (f) Annular disposal operations must comply with the following conditions:

- (1) the downhole disposal pressure may not at any time exceed the downhole pressure measured during the formation leak-off test that was conducted below the surface casing shoe unless the commission approves a higher pressure;
- (2) the operator must continuously monitor the following during disposal operations: the types and volumes of each type of waste disposed, disposal rates, surface pressures of the receiving well's disposal annulus, and, as specified by the commission, surface pressures of the annuli of all wells within a one-quarter mile radius of the surface casing shoe of the receiving well and surface pressures of the receiving well's outer annuli and tubing;
- (3) the operator shall immediately cease disposal, notify the commission within 24 hours, and take all appropriate remedial action, including but not limited to any action ordered by the commission, if
 - (A) there is evidence of a breach of the disposal annulus or migration of fluids from the disposal interval;
 - (B) disposal operations pose a threat to well integrity, health or safety, hydrocarbon-bearing zones, correlative rights, or the environment, including freshwater; or
 - (C) there is any unauthorized disposal;
- (4) the operator shall file with the commission an incident report within 10 working days after any incident requiring action under (f)(3) of this section; the incident report shall include a description of any actions taken and the effects and results of those actions; and

- (5) the operator shall comply with any other conditions the commission determines are important to ensure compliance with any limitations or requirements of this section.

(g) The operator shall

- (1) not later than 30 days after each calendar quarter during an authorized disposal operation period, file with the commission a Report of Annular Disposal (Form 10-423); and
- (2) file additional information and analyses as required by the commission.

- (h) Upon written request of the operator, the commission may approve a variance from a requirement of this section if the variance provides at least an equally effective means of complying with the requirement, or a waiver of a requirement of this section if the waiver will not promote waste, is based on sound engineering and geoscience principles, will not jeopardize the ultimate recovery of hydrocarbons, will not jeopardize correlative rights, and will not result in an increased risk to health, safety, or the environment, including freshwater.

- (i) In this section, "drilling waste" means the following substances, unless identified as a "hazardous waste" in 40 C.F.R. 261:

- (1) drilling mud, drilling cuttings, reserve pit fluids, cement-contaminated drilling mud, completion fluids, formation fluids associated with the act of drilling a well permitted under 20 AAC 25.005, and any added water needed to facilitate the pumping of drilling mud or drilling cuttings;
- (2) drill rig wash fluids and drill rig domestic waste water; and

- (3) other substances that the commission determines, upon the operator's written request, are wastes associated with the act of drilling a well permitted under 20 AAC 25.005.

(Eff. 9/22/96, Register 129; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030 AS 31.05.040

20 AAC 25.110(n) is amended to read:

(n) Upon written request of the operator, the commission may modify a deadline in this section upon a showing of good cause, approve a variance from any other requirement of this section if the variance provides at least an equally effective means of complying with the requirement, or approve a waiver of a requirement of this section if the waiver will not promote waste, is based on sound engineering and geoscience principles, will not jeopardize the ultimate recovery of hydrocarbons, will not jeopardize correlative rights, and will not result in an increased risk to health, safety, or the environment, including freshwater. (Eff.

4/2/86, Register 97; am 11/7/99, Register 152; am 11/19/2008, Register 188; am

____/____/____, Register ____)

Authority: AS 31.05.030 AS 31.05.040 AS 31.05.095

Hearing Testimony
Annular Disposal of Drilling Waste

Winton G. Aubert, Ph.D., P.E.

10/15/2009

Before the Commission today are proposed changes to Title 20, Chapter 25 of the Alaska Administrative Code, which are the AOGCC regulations. Specifically, and upon the Commission's motion, we are proposing repeal and re-adoption of Section 080 of the Commission regulations, entitled "Annular disposal of drilling waste", and a minor addition to Section 110 of the regulations, entitled "Suspended wells".

The proposed addition to regulation Section 110, "Suspended wells", allows the Commission explicit flexibility to vary or waive existing well suspension requirements. This explicit flexibility was, we believe, inadvertently removed from then existing regulations during a 2008 rewrite of Section 110. *Compare 1999: 20 AAC 25.110 (d) (2) with 2008: 20 AAC 25.110 (c) (2)*. We further believe that enacting this proposed change would impose no additional regulatory burden on industry.

Our proposed repeal and re-adoption of Section 080, "Annular disposal of drilling waste", is upon the Commission's motion to clarify the language and improve the logical order of the existing regulation. Before the Commission is actually a re-noticed proposal, that we believe addresses the U.S. Environmental Protection Agency's (EPA's) concern that AOGCC regulations not conflict with Federal law.

Proposed changes to the existing Section 080 include explicit requirements for (1) limiting the time duration of actual annular disposal to 90 days within a one-year approval window; (2) a receiving well schematic; (3) plats of all disposal interval penetrations within the one-quarter-mile area of review around the receiving well; (4) lists of well operators and surface owners within the one-quarter-mile area of review; (5) a shallow seismic data interpretation; (6) proposed waste slurry density; (7) results of a fluid injectivity test; (8) a salinity determination of all waters penetrated by the receiving wellbore; (9) continuous monitoring of physical injection parameters; (10) unusual incident report filing within 10 working days; and (11) modified filing timing for the Report of Annular Disposal (Form 10-423).

Further proposed changes to the existing Section 080 are (1) inclusion of explicit flexibility for Commission-approved variances and waivers, and (2) for waste injection into fresh water (<10,000 mg/L TDS), the requirement of a U.S. Environmental Protection Agency (EPA) aquifer exemption.

Finally, we propose recognizing the AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration and production, such as water source wells. This water well oversight was excluded from Commission responsibility in the 1999 regulations.

With respect to aspects of our proposed regulation changes falling under AOGCC oversight, we expect a relatively minor change in regulatory burden will result. We are not prepared to comment on the regulatory burden effect of our proposed "EPA oversight" provision.

<u>NAME</u>	<u>AFFILIATION</u>	<u>PHONE #</u>	<u>TESTIFY (Yes or No)</u>
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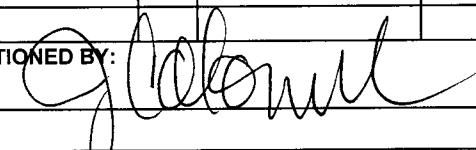
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RE-NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE
ALASKA OIL AND GAS CONSERVATION COMMISSION

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080). On May 22, 2009, AOGCC published a notice of proposed changes to 20 AAC 25.080. After substantive changes to the 20 AAC 25.080 AOGCC re-noticed them on September 3, 2009.

On October 15, 2009 the AOGCC convened a public hearing on the revision of 20 AAC 25.080. Based upon commentary at the hearing, the AOGCC adjourned the hearing to allow written input from the Environmental Protection Agency (EPA) regarding the revisions to 20 AAC 25.080. By correspondence dated November 20, 2009 the EPA provided its position regarding the amendments to 20 AAC 25.080.

The AOGCC now re-notices the changes to 20 AAC 25.080 as follows:

1. modify the aquifer exemption for the disposal of drilling waste to require that the operator apply for and the U.S. EPA grant the exemption;
2. modify the information that must be submitted with an annular disposal application;
3. modify the limitations and conditions applicable to annular disposal;
4. add a provision for requesting variances and waivers; and
5. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

Written comments on the proposed regulation changes, including the potential costs of compliance, may be submitted to AOGCC at 333 West 7th Ave., Suite 100, Anchorage, AK 99501. The comments must be received by 5:00 p.m. on February 8, 2010.

Written and/or oral comments may be submitted at a hearing to be held on February 16, 2010 at 333 West 7th Ave., Suite 100, Anchorage, AK. The hearing will be held from 9:00 a.m. to 11:00 a.m. and might be extended to accommodate those present before 9:30 a.m. who did not have an opportunity to comment.

If, because of a disability, a special accommodation is needed to participate in this process, please contact the Commission's Special Assistant, Jody Colombie, at 907-793-1221; 333 West 7th Ave., Suite 100, Anchorage, AK 99501; or jody.colombie@alaska.gov. Ms. Colombie must be contacted by February 11, 2010, at 5:00 p.m. to ensure that necessary accommodations can be provided.

The proposed regulation changes are available at www.aogcc.alaska.gov or by contacting Ms. Colombie at the phone number, physical address, or e-mail address above.

After the public comment period ends, AOGCC will adopt, without notice, these or other provisions dealing with the same subjects or decide to take no action. The language of the proposed and final regulations may be different. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments are subject to public inspection.

Statutory Authority: AS 31.05.030; AS 31.05.040; AS 31.05.095

Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030; AS 31.05.040; AS 31.05.095

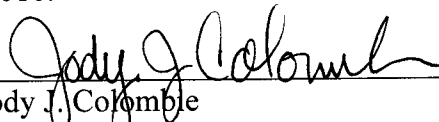
Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 1/6/10



Daniel T. Seamount, Jr.
Chair

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Oil and Gas Conservation Commission.
2. General subject of regulations: annular disposal of drilling waste.
3. Citation of regulations: 20 AAC 25.080.
4. Reason for the proposed action: update the annular disposal of drilling waste regulations.
5. Program category and BRU affected: Alaska Oil and Gas Conservation Commission.
6. Cost of implementation to the state agency: zero.
7. The name of the contact person for the regulations:
Name: Daniel T. Seamount, Jr.
Title: Chair
Address: 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501
Telephone: (907) 793-1221
E-mail: jody.colombie@alaska.gov
8. The origin of the proposed action: agency staff.
9. Date: January 7, 2010.
10. Prepared by: 
Jody J. Colombe
Alaska Oil and Gas Conservation Commission
(907) 793-1221

Anchorage Daily News Affidavit of Publication

1001 Northway Drive, Anchorage, AK 99508

AD #	DATE	PO	ACCOUNT	PRICE PER DAY	OTHER CHARGES	OTHER CHARGES #2	OTHER CHARGES #3	GRAND TOTAL
728054	01/08/2010	AO-03014	STOF0330	\$441.56	\$0.00	\$0.00	\$0.00	\$441.56

STATE OF ALASKA THIRD JUDICIAL DISTRICT

Shane Drew, being first duly sworn on oath deposes and says that he is an advertising representative of the Anchorage Daily News, a daily newspaper.

That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on the above dates and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed

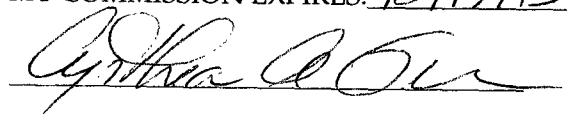
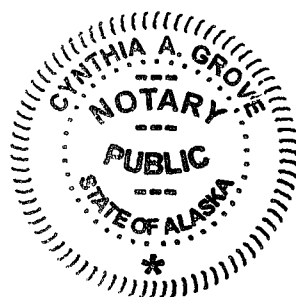


Subscribed and sworn to me before this date:

JAN 13 2010

Notary Public in and for the State of Alaska.
Third Division. Anchorage, Alaska

MY COMMISSION EXPIRES: 12/17/13

RE-NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE ALASKA OIL AND GAS CONSERVATION COMMISSION

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080). On May 22, 2009, AOGCC published a notice of proposed changes to 20 AAC 25.080. After substantive changes to the 20 AAC 25.080 AOGCC re-noticed them on September 3, 2009.

On October 15, 2009 the AOGCC convened a public hearing on the revision of 20 AAC 25.080. Based upon commentary at the hearing, the AOGCC adjourned the hearing to allow written input from the Environmental Protection Agency (EPA) regarding the revisions to 20 AAC 25.080. By correspondence dated November 20, 2009 the EPA provided its position regarding the amendments to 20 AAC 25.080.

The AOGCC now re-notices the changes to 20 AAC 25.080 as follows:

1. modify the aquifer exemption for the disposal of drilling waste to require that the operator apply for and the U.S. EPA grant the exemption;
2. modify the information that must be submitted with an annular disposal application;
3. modify the limitations and conditions applicable to annular disposal;
4. add a provision for requesting variances and waivers; and
5. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

Written comments on the proposed regulation changes, including the potential costs of compliance, may be submitted to AOGCC at 333 West 7th Ave., Suite 100, Anchorage, AK 99501. The comments must be received by 5:00 p.m. on February 8, 2010.

Written and/or oral comments may be submitted at a hearing to be held on February 16, 2010 at 333 West 7th Ave., Suite 100, Anchorage, AK. The hearing will be held from 9:00 a.m. to 11:00 a.m. and might be extended to accommodate those present before 9:30 a.m. who did not have an opportunity to comment.

If, because of a disability, a special accommodation is needed to participate in this process, please contact the Commission's Special Assistant, Jody Colombie, at 907-793-1221; 333 West 7th Ave., Suite 100, Anchorage, AK 99501; or jody.colombie@alaska.gov. Ms. Colombie must be contacted by February 11, 2010, at 5:00 p.m. to ensure that necessary accommodations can be provided.

The proposed regulation changes are available at www.aogcc.alaska.gov or by contacting Ms. Colombie at the phone number, physical address, or e-mail address above.

After the public comment period ends, AOGCC will adopt, without notice, these or other provisions dealing with the same subjects or decide to take no action. The language of the proposed and final regulations may be different. YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED. Written comments are subject to public inspection.

Statutory Authority: AS 31.05.030; AS 31.05.040; AS 31.05.095
Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030; AS 31.05.040; AS 31.05.095
Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

Daniel T. Seamount, Jr.
Chair

ADDITIONAL REGULATIONS NOTICE INFORMATION (AS 44.62.190(d))

1. Adopting agency: Alaska Oil and Gas Conservation Commission.
2. General subject of regulations: annular disposal of drilling waste.
3. Citation of regulations: 20 AAC 25.080.
4. Reason for the proposed action: update the annular disposal of drilling waste regulations.
5. Program category and BRU affected: Alaska Oil and Gas Conservation Commission.
6. Cost of implementation to the state agency: zero.
7. The name of the contact person for the regulations:

Name:	Daniel T. Seamount, Jr.
Title:	Chair
Address:	333 W. 7th Avenue, Suite 100, Anchorage, AK 99501
Telephone:	(907) 793-1221
E-mail:	jody.colombie@alaska.gov
8. The origin of the proposed action: agency staff.
9. Date: January 7, 2010.
10. Prepared by:

Jody J. Colombie
Alaska Oil and Gas Conservation Commission
(907) 793-1221

AO-03014017
Published: January 8, 2010

STATE OF ALASKA

NOTICE TO PUBLISHER

ADVERTISING ORDER NO.

ADVERTISING
ORDER

INVOICE MUST BE IN TRIPPLICATE SHOWING ADVERTISING ORDER NO., CERTIFIED
AFFIDAVIT OF PUBLICATION (PART 2 OF THIS FORM) WITH ATTACHED COPY OF
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AO-03014017

SEE BOTTOM FOR INVOICE ADDRESS

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AOGCC
333 West 7th Avenue, Suite 100
Anchorage, AK 99501
907-793-1238

AGENCY CONTACT

Jody Colombie

PHONE

(907) 793 -1221

DATE OF A.O.

January 5, 2010

PCN

DATES ADVERTISEMENT REQUIRED:

January 8, 2010

THE MATERIAL BETWEEN THE DOUBLE LINES MUST BE PRINTED IN
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Account # STOF0330

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Anchorage Daily News
PO Box 149001
Anchorage, AK 99514

AFFIDAVIT OF PUBLICATION

United states of America

State of _____ ss

_____ division.

Before me, the undersigned, a notary public this day personally appeared

_____ who, being first duly sworn, according to law, says that

he/she is the _____ of _____

Published at _____ in said division _____ and

state of _____ and that the advertisement, of which the annexed is

a true copy, was published in said publication on the _____ day of

_____ 2010, and thereafter for _____ consecutive days, the last publication

appearing on the _____ day of _____, 2010, and that the rate

charged thereon is not in excess of the rate charged private individuals.

Subscribed and sworn to before me

This _____ day of _____ 2010,

Notary public for state of _____

My commission expires _____

REMINDER

INVOICE MUST BE IN TRIPPLICATE AND MUST REFERENCE
THE ADVERTISING ORDER NUMBER.

A CERTIFIED COPY OF THIS AFFIDAVIT OF PUBLICATION
MUST BE SUBMITTED WITH THE INVOICE.

ATTACH PROOF OF PUBLICATION HERE.

20 AAC 25.080 is repealed and readopted to read:

20 AAC 25.080. Annular disposal of drilling waste

(a) Drilling waste, as defined in (i) of this section, may not be disposed through the annular space of a well unless authorized by the commission under this section. The operator of a well for which a permit to drill has been issued by the commission may request authorization to dispose of drilling waste through the well's annular space by filing an Annular Disposal Application (Form 10-403AD), including all the information required under (e) of this section.

(b) Annular disposal of drilling waste will be limited to

- (1) 35,000 barrels through the annular space of a single well;
- (2) wastes generated by drilling operations on the same drill pad or platform as the disposal annulus;
- (3) 90 days of actual disposal within a one-year approval period; and
- (4) a one-year period beginning on the date of approval of the Annular Disposal Application.

(c) Drilling waste must not

- (1) migrate from the approved disposal interval;
- (2) impair the mechanical integrity of any well; or

- (3) damage a producing or potentially producing formation or impair the recovery of oil or gas.
- (d) Drilling waste may not be disposed of into any freshwater unless the operator applies for and the United States Environmental Protection Agency grants an aquifer exemption.
- (e) An application for authorization under this section will not be complete unless it includes or references (*i.e.*, if the information is on file with the commission) the following information:
 - (1) a schematic of the well proposed to receive the drilling waste;
 - (2) lists and plats identifying
 - (A) all wells and well branches that penetrate the disposal interval within a one-quarter mile radius of the surface casing shoe of the disposal annulus; the well paths of all wells and well branches must be shown on the plat, and the planar distances from all wells and well branches to the surface casing shoe of the disposal annulus must be provided;
 - (B) all publicly recorded water wells within a one-mile radius of the surface location of the well that would receive the drilling waste; and
 - (C) all operators and surface owners within a one-quarter mile radius of the surface casing shoe of the disposal annulus;
 - (3) the measured and true vertical depths at the base of any freshwater aquifer(s) and permafrost;

- (4) an assessment of shallow seismic information in the area of the receiving well, where available, with an interpretation of faults and other anomalies;
- (5) a stratigraphic description of and off-set well log(s) across the disposal interval showing the drilling waste receiving and confining intervals;
- (6) a description of the drilling waste, including its composition and well source, and the identification of any waste that falls within (i)(3) of this section;
- (7) the estimated density of the drilling waste slurry;
- (8) the anticipated maximum pressure at the surface and at the surface casing shoe during the disposal operations; the calculations showing how the surface casing shoe pressure value was determined must be provided;
- (9) information demonstrating that the inner and outer casing strings have sufficient collapse and burst strength to withstand the maximum anticipated pressure of disposal operations;
- (10) information demonstrating that the surface casing shoe
 - (A) is set below the base of permafrost and any freshwater; and
 - (B) is adequately cemented to provide isolation; the information required under this sub-section must include
 - (i) casing and cementing records for both casings forming the annulus;

- (ii) casing and cementing records for all wells that penetrate the disposal interval within a one-quarter mile radius of the surface casing shoe;
 - (iii) the results of a leak-off test conducted below the surface casing shoe, or, if leak-off is not attained, the results of a formation integrity test conducted below the surface casing shoe;
 - (iv) the results of an injectivity test conducted below the surface casing shoe; and
 - (v) if required by the commission, a cement quality or other log(s);
- (11) a list and description of any uncemented significant hydrocarbon zones within the disposal annulus;
- (12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;
- (13) if drilling waste was previously disposed of through the annular space of the well, the dates of the disposal operations, the types and volumes of each type of waste disposed of, and the sources of the waste; and
- (14) additional information and analyses required by the commission.
- (f) Annular disposal operations must comply with the following conditions:

- (1) the downhole disposal pressure may not at any time exceed the downhole pressure measured during the formation leak-off test that was conducted below the surface casing shoe unless the commission approves a higher pressure;
- (2) the operator must continuously monitor the following during disposal operations: the types and volumes of each type of waste disposed, disposal rates, surface pressures of the receiving well's disposal annulus, and, as specified by the commission, surface pressures of the annuli of all wells within a one-quarter mile radius of the surface casing shoe of the receiving well and surface pressures of the receiving well's outer annuli and tubing;
- (3) the operator shall immediately cease disposal, notify the commission within 24 hours, and take all appropriate remedial action, including but not limited to any action ordered by the commission, if
 - (A) there is evidence of a breach of the disposal annulus or migration of fluids from the disposal interval;
 - (B) disposal operations pose a threat to well integrity, health or safety, hydrocarbon-bearing zones, correlative rights, or the environment, including freshwater; or
 - (C) there is any unauthorized disposal;
- (4) the operator shall file with the commission an incident report within 10 working days after any incident requiring action under (f)(3) of this section; the incident report shall include a description of any actions taken and the effects and results of those actions; and

- (5) the operator shall comply with any other conditions the commission determines are important to ensure compliance with any limitations or requirements of this section.

(g) The operator shall

- (1) not later than 30 days after each calendar quarter during an authorized disposal operation period, file with the commission a Report of Annular Disposal (Form 10-423); and

- (2) file additional information and analyses as required by the commission.

- (h) Upon written request of the operator, the commission may approve a variance from a requirement of this section if the variance provides at least an equally effective means of complying with the requirement, or a waiver of a requirement of this section if the waiver will not promote waste, is based on sound engineering and geoscience principles, will not jeopardize the ultimate recovery of hydrocarbons, will not jeopardize correlative rights, and will not result in an increased risk to health, safety, or the environment, including freshwater.

- (i) In this section, "drilling waste" means the following substances, unless identified as a "hazardous waste" in 40 C.F.R. 261:

- (1) drilling mud, drilling cuttings, reserve pit fluids, cement-contaminated drilling mud, completion fluids, formation fluids associated with the act of drilling a well permitted under 20 AAC 25.005, and any added water needed to facilitate the pumping of drilling mud or drilling cuttings;
- (2) drill rig wash fluids and drill rig domestic waste water; and

- (3) other substances that the commission determines, upon the operator's written request, are wastes associated with the act of drilling a well permitted under 20 AAC 25.005. (Eff. 9/22/96, Register 129; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030 AS 31.05.040

Colombie, Jody J (DOA)

From: Colombie, Jody J (DOA)
Sent: Thursday, January 07, 2010 10:46 AM
To: 'Drew, Shane'
Subject: RE: Public Notice
Attachments: image001.gif

Yes, please include the additional information

From: Drew, Shane [mailto:SDrew@adn.com]
Sent: Thursday, January 07, 2010 10:44 AM
To: Colombie, Jody J (DOA)
Subject: RE: Public Notice

Jody,

Here are your ad verifications. I did not include the additional regulations notice. Let me know if you would like me to do that.

Thank you,
Shane

Shane Drew
Legal Advertising Sales Representative / Supervisor | Anchorage Daily News
Direct: 907-257-4296 | Fax: 907-279-8170
SDrew@adn.com | 1001 Northway Drive | Anchorage, AK 99508

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From: Colombie, Jody J (DOA) [mailto:jody.colombie@alaska.gov]
Sent: Wednesday, January 06, 2010 3:37 PM
To: Ads, Legal
Subject: Public Notice

Jody J. Colombie
Special Assistant
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue, Suite 100
Anchorage, AK 99501
(907)793-1221 (phone)
(907)276-7542 (fax)

Colombie, Jody J (DOA)

From: Colombie, Jody J (DOA)
Sent: Thursday, January 07, 2010 10:35 AM
To: resregs@legis.state.ak.us; Ballantine, Tab A (LAW); (foms2@mtaonline.net); (michael.j.nelson@conocophillips.com); (Von.L.Hutchins@conocophillips.com); alaska@petrocalc.com; Anna Raff; Barbara F Fullmer; bbritch; Bill Walker; Bowen Roberts; Brad McKim; Brady, Jerry L; Brandon Gagnon; Brandow, Cande (ASRC Energy Services); Brian Gillespie; Brian Havelock; Bruce Webb; carol smyth; caunderwood; Charles O'Donnell; Chris Gay; Cliff Posey; Crandall, Krissell; Dan Bross; dapa; Daryl J. Kleppin; David Boelens; David House; David Steingreaber; 'ddonkel@cfl.rr.com'; Deborah J. Jones; doug_schultze; Elowe, Kristin; Evan Harness; eyancy; Francis S. Sommer; Fred Steece; Garland Robinson; Gary Laughlin; Gary Rogers; Gary Schultz; ghammons; Gordon Pospisil; Gorney, David L.; Gregg Nady; gspfoff; Hank Alford; Harry Engel; Jdarlington (jarlington@gmail.com); Jeff Jones; Jeffery B. Jones (jeff.jones@alaska.gov); Jerry McCutcheon; Jim White; Jim Winegarner; Joe Nicks; John Garing; John S. Haworth; John Spain; John Tower; John W Katz; Jon Goltz; Joseph Darrigo; Julie Houle; Kari Moriarty; Kaynell Zeman; Keith Wiles; Laura Silliphant; Marilyn Crockett; Mark Dalton; Mark Hanley (mark.hanley@anadarko.com); Mark Kovac; Mark P. Worcester; Marquerite kremer; Melanie Brown; Michael Jacobs; Mike Bill; Mike Mason; Mikel Schultz; Mindy Lewis; MJ Loveland; mjnelson; mkm7200; nelson; Nick W. Glover; NSK Offtake Coord; NSK Problem Well Supv; Patty Alfaro; Paul Decker (paul.decker@alaska.gov); PORHOLA, STAN T; Rader, Matthew W (DNR); Raj Nanvaan; Randall Kanady; Randy L. Skillern; Rob McWhorter; rob.g.dragnich@exxonmobil.com; Robert A. Province (raprovince@marathonoil.com); Robert Campbell; Roberts, Susan M.; Rudy Brueggeman; Scott Cranswick; Shannon Donnelly; Sharmaine Copeland; Shellenbaum, Diane P (DNR); Slemons, Jonne D (DNR); Sondra Stewman; Sonja Franklin; Steve Lambert; Steve Moothart; Steven R. Rossberg; Suzanne Gibson; tablerk; Tamera Sheffield; Taylor, Cammy O (DNR); Ted Rockwell; Temple Davidson; Teresa Imm; Terrie Hubble; Thor Cutler; Todd Durkee; Tony Hopfinger; trmj1; Walter Featherly; Williamson, Mary J (DNR); Winslow, Paul M; 'Aaron Gluzman'; 'Dale Hoffman'; Frédéric Grenier; 'Gary Orr'; Jerome Eggemeyer; 'Joe Longo'; 'Lamont Frazer'; Marc Kuck; 'Mary Aschoff'; Maurizio Grandi; P Bates; Richard Garrard; 'Sandra Lemke'; 'Scott Nash'; 'Wayne Wooster'; 'Willem Vollenbrock'; 'William Van Dyke'; Woolf, Wendy C (DNR); Aubert, Winton G (DOA); Brooks, Phoebe; Crisp, John H (DOA); Darlene Ramirez; Davies, Stephen F (DOA); Foerster, Catherine P (DOA); Grimaldi, Louis R (DOA); Johnson, Elaine M (DOA); Jones, Jeffery B (DOA); Laasch, Linda K (DOA); Mahnken, Christine R (DOA); Maunder, Thomas E (DOA); McIver, Bren (DOA); McMains, Stephen E (DOA); Noble, Robert C (DOA); Norman, John K (DOA); Okland, Howard D (DOA); Paladijczuk, Tracie L (DOA); Pasqual, Maria (DOA); Regg, James B (DOA); Roby, David S (DOA); Saltmarsh, Arthur C (DOA); Scheve, Charles M (DOA); Schwartz, Guy L (DOA); Seamount, Dan T (DOA)
Subject: Public Notice, Additional Regulations, Proposed Regulations
Attachments: Annular Disposal Regulation.pdf; Notice of Hearing Annular Disposal.pdf; Additional Info Annular Disposal.pdf

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080). On May 22, 2009, AOGCC published a notice of proposed changes to 20 AAC 25.080. After substantive changes to the 20 AAC 25.080 AOGCC re-noticed them on September 3, 2009 and again today.

On October 15, 2009 the AOGCC convened a public hearing on the revision of 20 AAC 25.080. Based upon commentary at the hearing, the AOGCC adjourned the hearing to allow written input from the Environmental Protection Agency (EPA) regarding the revisions to 20 AAC 25.080. By correspondence dated November 20, 2009 the EPA provided its position regarding the amendments to 20 AAC 25.080.

The AOGCC now re-notices the changes to 20 AAC 25.080 as follows:

1. modify the aquifer exemption for the disposal of drilling waste to require that the operator apply for and the U.S. EPA grant the exemption;

2. modify the information that must be submitted with an annular disposal application;
3. modify the limitations and conditions applicable to annular disposal;
4. add a provision for requesting variances and waivers; and
5. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

Jody J. Colombie
Special Assistant
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue, Suite 100
Anchorage, AK 99501
(907)793-1221 (phone)
(907)276-7542 (fax)

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Fairbanks, AK 99707

Bernie Karl
K&K Recycling Inc.
PO Box 58055
Fairbanks, AK 99711

North Slope Borough
PO Box 69
Barrow, AK 99723

Mailed 1/7/10

SERVICE LIST FOR PROPOSED AMENDMENTS TO 20 AAC 25.080

On January 7, 2010, I mailed to the following individuals the public notice of proposed amendments to 20 AAC 25.080, additional regulations notice information, and proposed regulations:

Annette Kreitzer
Commissioner
Department of Administration
PO Box 110200
Juneau, AK 99811

Debra Behr
Chief Assistant Attorney General
Legislation and Regulations Section
Department of Law
PO Box 110300
Juneau, AK 99811

Anchorage Daily News Affidavit of Publication

1001 Northway Drive, Anchorage, AK 99508

AD #	DATE	PO	ACCOUNT	PRICE PER DAY	OTHER CHARGES	OTHER CHARGES #2	OTHER CHARGES #3	GRAND TOTAL
681668	09/03/2009	AO-03014	STOF0330	\$424.96	\$0.00	\$0.00	\$0.00	\$424.96

STATE OF ALASKA THIRD JUDICIAL DISTRICT

Shane Drew, being first duly sworn, he is an advertising representative of a daily newspaper.

That said newspaper has been published in the English language continuously in Anchorage, Alaska, and it is printed in an office maintaining publication of said newspaper advertisement as it was published in supplemental form) of said that such newspaper was published during all of said period. That the foregoing publication is not in excess of the rate charged private individuals.

1. Adopting agency: Alaska Oil and Gas Conservation Commission.
2. General subject of regulations: annular disposal of drilling waste and suspended wells.
3. Citation of regulations: 20 AAC 25.080 and 20 AAC 25.110(n).
4. Reason for the proposed action: update the annular disposal of drilling waste regulations and add opportunities for variances and waivers to the suspended wells regulations.
5. Program category and BRU affected: Alaska Oil and Gas Conservation Commission.
6. Cost of implementation to the state agency: zero.
7. The name of the contact person for the regulations:
 - Name: Daniel T. Seamount, Jr.
 - Title: Chair
 - Address: 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501
 - Telephone: (907) 793-1221
 - E-mail: jody.colombie@alaska.gov
8. The origin of the proposed action: agency staff.
9. Date: September 1, 2009.
10. Prepared by: Jody J. Colombie, Alaska Oil and Gas Conservation Commission (907) 793-1221

AO-03014009
Published: September 3, 2009

Signed



Subscribed and sworn to me before this date:

9/4/09

Notary Public in and for the State of Alaska.
Third Division. Anchorage, Alaska

MY COMMISSION EXPIRES:

12/17/09



NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE ALASKA OIL AND GAS CONSERVATION COMMISSION

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080) and suspended wells (20 AAC 25.110). On May 22, 2009, AOGCC published a notice of proposed changes to 20 AAC 25.080; because of substantive changes to the proposed changes, AOGCC is re-noticing them, fully revising (i.e., repealing and readopting) 20 AAC 25.080 as follows:

1. modify the aquifer exemption for the disposal of drilling waste to require that the operator apply for and the U.S. EPA grant the exemption;
2. modify the information that must be submitted with an annular disposal application;
3. modify the limitations and conditions applicable to annular disposal;
4. add a provision for requesting variances and waivers; and
5. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

In addition, AOGCC proposes to add to 20 AAC 25.110(n) the opportunity for variances and waivers.

Written comments on the proposed regulation changes, including the potential costs of compliance, may be submitted to AOGCC at 333 West 7th Ave., Suite 100, Anchorage, AK 99501. The comments must be received by 5:00 p.m. on October 9, 2009.

Written and/or oral comments may be submitted at a hearing to be held on October 15, 2009, at 333 West 7th Ave., Suite 100, Anchorage, AK. The hearing will be held from 9:00 a.m. to 11:00 a.m. and might be extended to accommodate those present before 9:30 a.m. who did not have an opportunity to comment.

If, because of a disability, a special accommodation is needed to participate in this process, please contact the Commission's Special Assistant, Jody Colombie, at 907-793-1221; 333 West 7th Ave., Suite 100, Anchorage, AK 99501; or jody.colombie@alaska.gov. Ms. Colombie must be contacted by October 6, 2009, at 5:00 p.m. to ensure that necessary accommodations can be provided.

The proposed regulation changes are available at www.aogcc.alaska.gov or by contacting Ms. Colombie at the phone number, physical address, or e-mail address above.

After the public comment period ends, AOGCC will adopt, without notice, these or other provisions dealing with the same subjects or decide to take no action. The language of the proposed and final regulations may be different: YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED. Written comments are subject to public inspection.

Statutory Authority: AS 31.05.030; AS 31.05.040; AS 31.05.095

Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030; AS 31.05.040; AS 31.05.095

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: September 1, 2009
Daniel T. Seamount, Jr.
Chair

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

Colombie, Jody J (DOA)

From: Colombie, Jody J (DOA)
Sent: Wednesday, January 27, 2010 10:08 AM
To: Tammie Wilson
Subject: FW: Public Notice, Additional Regulations, Proposed Regulations
Attachments: Annular Disposal Regulation.pdf; Notice of Hearing Annular Disposal.pdf; Additional Info Annular Disposal.pdf

From: Colombie, Jody J (DOA)

Sent: Thursday, January 07, 2010 10:35 AM

To: resregs@legis.state.ak.us; Ballantine, Tab A (LAW); (foms2@mtaonline.net); (michael.j.nelson@conocophillips.com); (Von.L.Hutchins@conocophillips.com); alaska@petrocalc.com; Anna Raff; Barbara F Fullmer; bbritch; Bill Walker; Bowen Roberts; Brad McKim; Brady, Jerry L; Brandon Gagnon; Brandow, Cande (ASRC Energy Services); Brian Gillespie; Brian Havelock; Bruce Webb; carol smyth; caunderwood; Charles O'Donnell; Chris Gay; Cliff Posey; Crandall, Krissell; Dan Bross; dapa; Daryl J. Kleppin; David Boelens; David House; David Steingreaber; 'ddonkel@cfl.rr.com'; Deborah J. Jones; doug_schultze; Elowe, Kristin; Evan Harness; eyancy; Francis S. Sommer; Fred Steece; Garland Robinson; Gary Laughlin; Gary Rogers; Gary Schultz; ghammons; Gordon Pospisil; Gorney, David L.; Gregg Nady; gspfoff; Hank Alford; Harry Engel; Jdarlington (jarlington@gmail.com); Jeff Jones; Jeffery B. Jones (jeff.jones@alaska.gov); Jerry McCutcheon; Jim White; Jim Winegarner; Joe Nicks; John Garing; John S. Haworth; John Spain; John Tower; John W Katz; Jon Goltz; Joseph Darrigo; Julie Houle; Kari Moriarty; Kaynell Zeman; Keith Wiles; Laura Silliphant; Marilyn Crockett; Mark Dalton; Mark Hanley (mark.hanley@anadarko.com); Mark Kovac; Mark P. Worcester; Marquerite kremer; Melanie Brown; Michael Jacobs; Mike Bill; Mike Mason; Mikel Schultz; Mindy Lewis; MJ Loveland; mjnelson; mkm7200; nelson; Nick W. Glover; NSK Offtake Coord; NSK Problem Well Supv; Patty Alfaro; Paul Decker (paul.decker@alaska.gov); PORHOLA, STAN T; Rader, Matthew W (DNR); Raj Nanvaan; Randall Kanady; Randy L. Skillern; Rob McWhorter; rob.g.dragnich@exxonmobil.com; Robert A. Province (raprovince@marathonoil.com); Robert Campbell; Roberts, Susan M.; Rudy Brueggeman; Scott Cranswick; Shannon Donnelly; Sharmaine Copeland; Shellenbaum, Diane P (DNR); Slemons, Jonne D (DNR); Sondra Stewman; Sonja Frankllin; Steve Lambert; Steve Moothart; Steven R. Rossberg; Suzanne Gibson; tablerk; Tamera Sheffield; Taylor, Cammy O (DNR); Ted Rockwell; Temple Davidson; Teresa Imm; Terrie Hubble; Thor Cutler; Todd Durkee; Tony Hopfinger; trmjr1; Walter Featherly; Williamson, Mary J (DNR); Winslow, Paul M; 'Aaron Gluzman'; 'Dale Hoffman'; Frédéric Grenier; 'Gary Orr'; Jerome Eggemeyer; 'Joe Longo'; 'Lamont Frazer'; Marc Kuck; 'Mary Aschoff'; Maurizio Grandi; P Bates; Richard Garrard; 'Sandra Lemke'; 'Scott Nash'; 'Wayne Wooster'; 'Willem Vollenbrock'; 'William Van Dyke'; Woolf, Wendy C (DNR); Aubert, Winton G (DOA); Brooks, Phoebe; Crisp, John H (DOA); Darlene Ramirez; Davies, Stephen F (DOA); Foerster, Catherine P (DOA); Grimaldi, Louis R (DOA); Johnson, Elaine M (DOA); Jones, Jeffery B (DOA); Laasch, Linda K (DOA); Mahnken, Christine R (DOA); Maunder, Thomas E (DOA); McIver, Bren (DOA); McMains, Stephen E (DOA); Noble, Robert C (DOA); Norman, John K (DOA); Okland, Howard D (DOA); Paladijczuk, Tracie L (DOA); Pasqual, Maria (DOA); Regg, James B (DOA); Roby, David S (DOA); Saltmarsh, Arthur C (DOA); Scheve, Charles M (DOA); Schwartz, Guy L (DOA); Seamount, Dan T (DOA)

Subject: Public Notice, Additional Regulations, Proposed Regulations

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080). On May 22, 2009, AOGCC published a notice of proposed changes to 20 AAC 25.080. After substantive changes to the 20 AAC 25.080 AOGCC re-noticed them on September 3, 2009 and again today.

On October 15, 2009 the AOGCC convened a public hearing on the revision of 20 AAC 25.080. Based upon commentary at the hearing, the AOGCC adjourned the hearing to allow written input from the Environmental Protection Agency (EPA) regarding the revisions to 20 AAC 25.080. By correspondence dated November 20, 2009 the EPA provided its position regarding the amendments to 20 AAC 25.080.

The AOGCC now re-notices the changes to 20 AAC 25.080 as follows:

1. modify the aquifer exemption for the disposal of drilling waste to require that the operator apply for and the U.S. EPA grant the exemption;
2. modify the information that must be submitted with an annular disposal application;
3. modify the limitations and conditions applicable to annular disposal;
4. add a provision for requesting variances and waivers; and
5. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

Jody J. Colombie
Special Assistant
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue, Suite 100
Anchorage, AK 99501
(907)793-1221 (phone)
(907)276-7542 (fax)

STATE OF ALASKA

NOTICE TO PUBLISHER

ADVERTISING ORDER NO.

ADVERTISING
ORDERINVOICE MUST BE IN TRIPPLICATE SHOWING ADVERTISING ORDER NO., CERTIFIED
AFFIDAVIT OF PUBLICATION (PART 2 OF THIS FORM) WITH ATTACHED COPY OF
ADVERTISEMENT MUST BE SUBMITTED WITH INVOICE

AO-03014009

SEE BOTTOM FOR INVOICE ADDRESS

F R O M	AOGCC 333 W 7th Ave, Ste 100 Anchorage, AK 99501 907-793-1238	AGENCY CONTACT Jody Colombie PHONE (907) 793-1221	DATE OF A.O. September 1, 2009 PCN
	T O Anchorage Daily News PO Box 149001 Anchorage, AK 99514	DATES ADVERTISEMENT REQUIRED: September 3, 2009 THE MATERIAL BETWEEN THE DOUBLE LINES MUST BE PRINTED IN ITS ENTIRETY ON THE DATES SHOWN. SPECIAL INSTRUCTIONS: Advertisement to be published was e-mailed	

 Type of Advertisement Legal ☒ ☐ Display Classified ☐ Other (Specify)

SEE ATTACHED

SEND INVOICE IN TRIPLICATE
TOAOGCC, 333 W. 7th Ave., Suite 100
Anchorage, AK 99501PAGE 1 OF
2 PAGESTOTAL OF
ALL PAGES\$

REF	TYPE	NUMBER	AMOUNT	DATE	COMMENTS			
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2									

REQUISITIONED BY:	DIVISION APPROVAL:
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NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE
ALASKA OIL AND GAS CONSERVATION COMMISSION

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080) and suspended wells (20 AAC 25.110). On May 22, 2009, AOGCC published a notice of proposed changes to 20 AAC 25.080; because of substantive changes to the proposed changes, AOGCC is re-noticing them, fully revising (*i.e.*, repealing and readopting) 20 AAC 25.080 as follows:

1. modify the aquifer exemption for the disposal of drilling waste to require that the operator apply for and the U.S. EPA grant the exemption;
2. modify the information that must be submitted with an annular disposal application;
3. modify the limitations and conditions applicable to annular disposal;
4. add a provision for requesting variances and waivers; and
5. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

In addition, AOGCC proposes to add to 20 AAC 25.110(n) the opportunity for variances and waivers.

Written comments on the proposed regulation changes, including the potential costs of compliance, may be submitted to AOGCC at 333 West 7th Ave., Suite 100, Anchorage, AK 99501. The comments must be received by 5:00 p.m. on October 9, 2009.

Written and/or oral comments may be submitted at a hearing to be held on October 15, 2009, at 333 West 7th Ave., Suite 100, Anchorage, AK. The hearing will be held from 9:00 a.m. to 11:00 a.m. and might be extended to accommodate those present before 9:30 a.m. who did not have an opportunity to comment.

If, because of a disability, a special accommodation is needed to participate in this process, please contact the Commission's Special Assistant, Jody Colombie, at 907-793-1221; 333 West 7th Ave., Suite 100, Anchorage, AK 99501; or jody.colombie@alaska.gov. Ms. Colombie must be contacted by October 6, 2009, at 5:00 p.m. to ensure that necessary accommodations can be provided.

The proposed regulation changes are available at www.aogcc.alaska.gov or by contacting Ms. Colombie at the phone number, physical address, or e-mail address above.

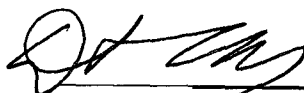
After the public comment period ends, AOGCC will adopt, without notice, these or other provisions dealing with the same subjects or decide to take no action. The language of the proposed and final regulations may be different. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments are subject to public inspection.

Statutory Authority: AS 31.05.030; AS 31.05.040; AS 31.05.095

Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030; AS 31.05.040; AS 31.05.095

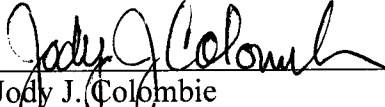
Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 9/1/9



Daniel T. Seamount, Jr.
Chair

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Oil and Gas Conservation Commission.
2. General subject of regulations: annular disposal of drilling waste and suspended wells.
3. Citation of regulations: 20 AAC 25.080 and 20 AAC 25.110(n).
4. Reason for the proposed action: update the annular disposal of drilling waste regulations and add opportunities for variances and waivers to the suspended wells regulations.
5. Program category and BRU affected: Alaska Oil and Gas Conservation Commission.
6. Cost of implementation to the state agency: zero.
7. The name of the contact person for the regulations:
Name: Daniel T. Seamount, Jr.
Title: Chair
Address: 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501
Telephone: (907) 793-1221
E-mail: jody.colombie@alaska.gov
8. The origin of the proposed action: agency staff.
9. Date: September 1, 2009.
10. Prepared by: 
Jody J. Colombie
Alaska Oil and Gas Conservation Commission
(907) 793-1221

STATE OF ALASKA

NOTICE TO PUBLISHER

ADVERTISING ORDER NO.

ADVERTISING
ORDER

INVOICE MUST BE IN TRIPLICATE SHOWING ADVERTISING ORDER NO., CERTIFIED
AFFIDAVIT OF PUBLICATION (PART 2 OF THIS FORM) WITH ATTACHED COPY OF
ADVERTISEMENT MUST BE SUBMITTED WITH INVOICE

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SEE BOTTOM FOR INVOICE ADDRESS

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R
O
M

AOGCC
333 West 7th Avenue. Suite 100
Anchorage. AK 99501
907-793-1238

AGENCY CONTACT

Jody Colombie

PHONE

(907) 793 -1221

DATE OF A.O.

September 1, 2009

PCN

DATES ADVERTISEMENT REQUIRED:

September 3, 2009

THE MATERIAL BETWEEN THE DOUBLE LINES MUST BE PRINTED IN
ITS ENTIRETY ON THE DATES SHOWN.

SPECIAL INSTRUCTIONS:

Account # STOF0330

T
O

Anchorage Daily News
PO Box 149001

Anchorage, AK 99514

AFFIDAVIT OF PUBLICATION

United states of America

State of _____ ss

_____ division.

Before me, the undersigned, a notary public this day personally appeared

_____ who, being first duly sworn, according to law, says that

he/she is the _____ of _____

Published at _____ in said division _____ and

state of _____ and that the advertisement, of which the annexed is

a true copy, was published in said publication on the _____ day of

_____ 2009, and thereafter for _____ consecutive days, the last publication

appearing on the _____ day of _____, 2009, and that the rate

charged thereon is not in excess of the rate charged private individuals.

Subscribed and sworn to before me

This _____ day of _____ 2009,

Notary public for state of _____

My commission expires _____

REMINDER

INVOICE MUST BE IN TRIPLICATE AND MUST REFERENCE
THE ADVERTISING ORDER NUMBER.

A CERTIFIED COPY OF THIS AFFIDAVIT OF PUBLICATION
MUST BE SUBMITTED WITH THE INVOICE.

ATTACH PROOF OF PUBLICATION HERE.

20 AAC 25.080 is repealed and readopted to read:

20 AAC 25.080. Annular disposal of drilling waste

(a) Drilling waste, as defined in (i) of this section, may not be disposed through the annular space of a well unless authorized by the commission under this section. The operator of a well for which a permit to drill has been issued by the commission may request authorization to dispose of drilling waste through the well's annular space by filing an Annular Disposal Application (Form 10-403AD), including all the information required under (e) of this section.

(b) Annular disposal of drilling waste will be limited to

- (1) 35,000 barrels through the annular space of a single well;
- (2) wastes generated by drilling operations on the same drill pad or platform as the disposal annulus;
- (3) 90 days of actual disposal within a one-year approval period; and
- (4) a one-year period beginning on the date of approval of the Annular Disposal Application.

(c) Drilling waste must not

- (1) migrate from the approved disposal interval;
- (2) impair the mechanical integrity of any well; or

(3) damage a producing or potentially producing formation or impair the recovery of oil or gas.

(d) Drilling waste may not be disposed of into any freshwater unless the operator applies for and the United States Environmental Protection Agency grants an aquifer exemption.

(e) An application for authorization under this section will not be complete unless it includes or references (*i.e.*, if the information is on file with the commission) the following information:

(1) a schematic of the well proposed to receive the drilling waste;

(2) lists and plats identifying

(A) all wells and well branches that penetrate the disposal interval within a one-quarter mile radius of the surface casing shoe of the disposal annulus; the well paths of all wells and well branches must be shown on the plat, and the planar distances from all wells and well branches to the surface casing shoe of the disposal annulus must be provided;

(B) all publicly recorded water wells within a one-mile radius of the surface location of the well that would receive the drilling waste; and

(C) all operators and surface owners within a one-quarter mile radius of the surface casing shoe of the disposal annulus;

(3) the measured and true vertical depths at the base of any freshwater aquifer(s) and permafrost;

- (4) an assessment of shallow seismic information in the area of the receiving well, where available, with an interpretation of faults and other anomalies;
- (5) a stratigraphic description of and off-set well log(s) across the disposal interval showing the drilling waste receiving and confining intervals;
- (6) a description of the drilling waste, including its composition and well source, and the identification of any waste that falls within (i)(3) of this section;
- (7) the estimated density of the drilling waste slurry;
- (8) the anticipated maximum pressure at the surface and at the surface casing shoe during the disposal operations; the calculations showing how the surface casing shoe pressure value was determined must be provided;
- (9) information demonstrating that the inner and outer casing strings have sufficient collapse and burst strength to withstand the maximum anticipated pressure of disposal operations;
- (10) information demonstrating that the surface casing shoe
 - (A) is set below the base of permafrost and any freshwater; and
 - (B) is adequately cemented to provide isolation; the information required under this sub-section must include
 - (i) casing and cementing records for both casings forming the annulus;

- (ii) casing and cementing records for all wells that penetrate the disposal interval within a one-quarter mile radius of the surface casing shoe;
 - (iii) the results of a leak-off test conducted below the surface casing shoe, or, if leak-off is not attained, the results of a formation integrity test conducted below the surface casing shoe;
 - (iv) the results of an injectivity test conducted below the surface casing shoe; and
 - (v) if required by the commission, a cement quality or other log(s);
- (11) a list and description of any uncemented significant hydrocarbon zones within the disposal annulus;
- (12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;
- (13) if drilling waste was previously disposed of through the annular space of the well, the dates of the disposal operations, the types and volumes of each type of waste disposed of, and the sources of the waste; and
- (14) additional information and analyses required by the commission.
- (f) Annular disposal operations must comply with the following conditions:

- (1) the downhole disposal pressure may not at any time exceed the downhole pressure measured during the formation leak-off test that was conducted below the surface casing shoe unless the commission approves a higher pressure;
- (2) the operator must continuously monitor the following during disposal operations: the types and volumes of each type of waste disposed, disposal rates, surface pressures of the receiving well's disposal annulus, and, as specified by the commission, surface pressures of the annuli of all wells within a one-quarter mile radius of the surface casing shoe of the receiving well and surface pressures of the receiving well's outer annuli and tubing;
- (3) the operator shall immediately cease disposal, notify the commission within 24 hours, and take all appropriate remedial action, including but not limited to any action ordered by the commission, if
 - (A) there is evidence of a breach of the disposal annulus or migration of fluids from the disposal interval;
 - (B) disposal operations pose a threat to well integrity, health or safety, hydrocarbon-bearing zones, correlative rights, or the environment, including freshwater; or
 - (C) there is any unauthorized disposal;
- (4) the operator shall file with the commission an incident report within 10 working days after any incident requiring action under (f)(3) of this section; the incident report shall include a description of any actions taken and the effects and results of those actions; and

- (5) the operator shall comply with any other conditions the commission determines are important to ensure compliance with any limitations or requirements of this section.

(g) The operator shall

- (1) not later than 30 days after each calendar quarter during an authorized disposal operation period, file with the commission a Report of Annular Disposal (Form 10-423); and

- (2) file additional information and analyses as required by the commission.

- (h) Upon written request of the operator, the commission may approve a variance from a requirement of this section if the variance provides at least an equally effective means of complying with the requirement, or a waiver of a requirement of this section if the waiver will not promote waste, is based on sound engineering and geoscience principles, will not jeopardize the ultimate recovery of hydrocarbons, will not jeopardize correlative rights, and will not result in an increased risk to health, safety, or the environment, including freshwater.

- (i) In this section, "drilling waste" means the following substances, unless identified as a "hazardous waste" in 40 C.F.R. 261:

- (1) drilling mud, drilling cuttings, reserve pit fluids, cement-contaminated drilling mud, completion fluids, formation fluids associated with the act of drilling a well permitted under 20 AAC 25.005, and any added water needed to facilitate the pumping of drilling mud or drilling cuttings;
- (2) drill rig wash fluids and drill rig domestic waste water; and

- (3) other substances that the commission determines, upon the operator's written request, are wastes associated with the act of drilling a well permitted under 20 AAC 25.005. (Eff. 9/22/96, Register 129; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030 AS 31.05.040

20 AAC 25.110(n) is amended to read:

(n) Upon written request of the operator, the commission may modify a deadline in this section upon a showing of good cause, approve a variance from any other requirement of this section if the variance provides at least an equally effective means of complying with the requirement, or approve a waiver of a requirement of this section if the waiver will not promote waste, is based on sound engineering and geoscience principles, will not jeopardize the ultimate recovery of hydrocarbons, will not jeopardize correlative rights, and will not result in an increased risk to health, safety, or the environment, including freshwater. (Eff.

4/2/86, Register 97; am 11/7/99, Register 152; am 11/19/2008, Register 188; am

____/____/____, Register ____)

Authority: AS 31.05.030

AS 31.05.040

AS 31.05.095

Colombie, Jody J (DOA)

From: Colombie, Jody J (DOA)
Sent: Thursday, September 03, 2009 4:36 PM
To: 'Legislative Affairs Agency'; McGuire, Lesil L (LAA); Wielechowski, Bill (LAA); Huggins, Charlie (LAA); Johnson, Craig W (LAA); Neuman, Mark A (LAA); Keller, Wes (LAA); Donny Olson; Bettye J Davis; John Harris
Subject: Public Notice, Additional Information and Proposed Regulations - Annular Disposal and Suspended Wells
Attachments: Public Notice, Additional Regulations, Amended Regulations 9-1-09.pdf

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080) and suspended wells (20 AAC 25.110). On May 22, 2009, AOGCC published a notice of proposed changes to 20 AAC 25.080; because of substantive changes to the proposed changes, AOGCC is re-noticing them, fully revising (*i.e.*, repealing and readopting) 20 AAC 25.080 as follows:

1. modify the aquifer exemption for the disposal of drilling waste to require that the operator apply for and the U.S. EPA grant the exemption;
2. modify the information that must be submitted with an annular disposal application;
3. modify the limitations and conditions applicable to annular disposal;
4. add a provision for requesting variances and waivers; and
5. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

In addition, AOGCC proposes to add to 20 AAC 25.110(n) the opportunity for variances and waivers.

Jody J. Colombie
Special Assistant
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue, Suite 100
Anchorage, AK 99501
(907)793-1221 (phone)
(907)276-7542 (fax)

9/3/2009

SERVICE LIST FOR PROPOSED AMENDMENTS TO 20 AAC 25.080

On September 1, 2009, I mailed to the following individuals the public notice of proposed amendments to 20 AAC 25.080 and 20 AAC 25.100, additional regulations notice information, and proposed regulations:

Annette Kreitzer
Commissioner
Department of Administration
PO Box 110200
Juneau, AK 99811

Legislative Legal and Research Services
Legislative Affairs Agency
State Capitol
Juneau, AK 99801
Mail Stop: 3101

Senator Lesil McGuire, Co-Chair
Senate Resources Committee
716 W. 4th Ave. Suite 430
Anchorage AK, 99501-2133

Senator Bill Wielechowski, Co-Chair
Senate Resources Committee
716 W 4th Ave # 540
Anchorage, AK 99501

Senator Charlie Huggins, Vice-Chair
Senate Resources Committee
600 E. Railroad Avenue
Wasilla AK, 99654

Representative Craig Johnson, Co-Chair
House Resources Committee
716 W. 4th Ave. Suite 640
Anchorage AK, 99501-2133

Representative Mark Neuman, Co-Chair
House Resources Committee
600 E. Railroad Avenue
Wasilla AK, 99654

Representative Wes Keller, Chair
Administrative Regulation Review
600 E. Railroad Avenue
Wasilla AK, 99654

Senator Donald Olson, Vice-Chair
Administrative Regulation Review
716 W. 4th Ave. Suite 560
Anchorage AK, 99501-2133

Senator Bettye Davis, Vice-Chair
Legislative Council
716 W. 4th Ave. Suite 400
Anchorage AK, 99501-2133

Representative John Harris, Chair
Legislative Council
716 W. 4th Ave. Suite 600
Anchorage AK, 99501-2133

On September 1, 2009, I mailed to the following individual the public notice of proposed amendments to 20 AAC 25.080 and 20 AAC 25.100, additional regulations notice information, and proposed regulations:

Debra Behr
Chief Assistant Attorney General
Legislation and Regulations Section
Department of Law
PO Box 110300
Juneau, AK 99811

Mary Jones
XTO Energy, Inc.
Cartography
810 Houston Street, Ste 2000
Ft. Worth, TX 76102-6298

David McCaleb
IHS Energy Group
GEPS
5333 Westheimer, Ste 100
Houston, TX 77056

Cindi Walker
Tesoro Refining and Marketing Co.
Supply & Distribution
300 Concord Plaza Drive
San Antonio, TX 78216

George Vaught, Jr.
PO Box 13557
Denver, CO 80201-3557

Jerry Hodgden
Hodgden Oil Company
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Golden, CO 80401-2433

Richard Neahrng
NRG Associates
President
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Schlumberger
Drilling and Measurements
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Anchorage, AK 99503

Ciri
Land Department
PO Box 93330
Anchorage, AK 99503

Baker Oil Tools
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Anchorage, AK 99503

Ivan Gillian
9649 Musket Bell Cr.#5
Anchorage, AK 99507

Jill Schneider
US Geological Survey
4200 University Dr.
Anchorage, AK 99508

Gordon Severson
3201 Westmar Cr.
Anchorage, AK 99508-4336

Jack Hakkila
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Anchorage, AK 99519

Darwin Waldsmith
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Ninilchick, AK 99639

James Gibbs
PO Box 1597
Soldotna, AK 99669

Kenai National Wildlife Refuge
Refuge Manager
PO Box 2139
Soldotna, AK 99669-2139

Penny Vadla
399 West Riverview Avenue
Soldotna, AK 99669-7714

Richard Wagner
PO Box 60868
Fairbanks, AK 99706

Cliff Burglin
PO Box 70131
Fairbanks, AK 99707

Bernie Karl
K&K Recycling Inc.
PO Box 58055
Fairbanks, AK 99711

North Slope Borough
PO Box 69
Barrow, AK 99723

Mailed 9/11/09

Colombie, Jody J (DOA)

From: Colombie, Jody J (DOA)
Sent: Tuesday, September 01, 2009 1:53 PM
Subject: Public Notice, Additional Information and Proposed Regulations - Annular Disposal and Suspended Wells
Attachments: Public Notice, Additional Regulations, Amended Regulations 9-1-09.pdf

BCC:Ballantine, Tab A (LAW); 'Tohan.Ankur@epamail.epa.gov'; 'Aaron Gluzman'; caunderwood@marathonoil.com; 'Dale Hoffman'; Fridiric Grenier; 'Gary Orr'; Jerome Eggemeyer; 'Joe Longo'; 'Lamont Frazer'; Marc Kuck; 'Mary Aschoff'; Maurizio Grandi; P Bates; Richard Garrard; 'Sandra Lemke'; 'Scott Nash'; 'Steve Virant'; 'Wayne Wooster'; 'Willem Vollenbrock'; 'William Van Dyke'; Woolf, Wendy C (DNR); 'Anna Raff'; 'Barbara F Fullmer'; 'bbritch'; 'Bill Walker'; 'Brad McKim'; 'Brandon Gagnon'; 'Brian Gillespie'; 'Brian Havelock'; 'Brit Lively'; 'Bruce Webb'; 'buonoje'; 'Cammy Taylor'; 'Cande.Brandow'; 'carol smyth'; 'Charles O'Donnell'; Chris Gay; 'Cliff Posey'; 'Dan Bross'; 'dapa'; 'Daryl J. Kleppin'; 'David Brown'; 'David Gorney'; David House; 'David L Boelens'; 'David Steingreaber'; 'ddonkel'; Deborah Jones; Decker, Paul L (DNR); 'doug_schultze'; 'Eric Lidji'; 'Evan Harness'; 'eyancy'; 'foms2@mtaonline.net'; 'Francis S. Sommer'; 'Fred Steece'; 'Garland Robinson'; 'Gary Laughlin'; 'Gary Rogers'; 'Gary Schultz'; 'ghammons'; 'Gordon Pospisil'; 'Gregg Nady'; 'gspfoff'; 'Hank Alford'; 'Harry Engel'; 'jah'; 'Janet D. Platt'; 'jejones'; 'Jerry Brady'; 'Jerry McCutcheon'; 'Jim Arlington'; 'Jim White'; 'Jim Winegarner'; 'Joe Nicks'; 'John Garing'; 'John S. Haworth'; 'John Spain'; 'John Tower'; 'John W Katz'; 'Jon Goltz'; Joseph Darrigo; 'Julie Houle'; 'Kari Moriarty'; 'Kaynell Zeman'; 'Keith Wiles'; knelson@petroleumnews.com; 'Krissell Crandall'; 'Kristin Elowe'; 'Laura Silliphant'; 'mail=akpratts@acsalaska.net'; 'mail=foms@mtaonline.net'; 'Marilyn Crockett'; 'Mark Dalton'; 'Mark Hanley'; 'Mark Kovac'; 'Mark P. Worcester'; 'Marquerite kremer'; Melanie Brown; 'Michael Nelson'; 'Mike Bill'; 'Mike Jacobs'; 'Mike Mason'; 'Mikel Schultz'; 'Mindy Lewis'; 'MJ Loveland'; 'mjnelson'; 'mkm7200'; 'Nick W. Glover'; NSK Problem Well Supv; NSU, ADW Well Integrity Engineer; 'Patty Alfaro'; 'Paul Winslow'; Rader, Matthew W (DNR); Raj Nanvaan; 'Randall Kanady'; 'Randy L. Skillern'; 'Rob McWhorter'; rob.g.dragnich@exxonmobil.com; 'Robert Campbell'; 'Robert Province'; 'Rudy Brueggeman'; 'Sandra Pierce'; 'Scott Cranswick'; 'Shannon Donnelly'; 'Sharmaine Copeland'; Shellenbaum, Diane P (DNR); Slemons, Jonne; 'Sondra Stewman'; 'Sonja Frankllin'; 'Stan Porhola'; 'stanekj'; 'Steve Lambert'; 'Steve Moothart'; 'Steven R. Rossberg'; 'tablerk'; 'Tamera Sheffield'; 'Temple Davidson'; Teresa Imm; 'Terrie Hubble'; Thompson, Nan G (DNR); 'Tim Lawlor'; 'Todd Durkee'; Tony Hopfinger; 'trmjrl'; 'Walter Featherly'; Walter Quay; Aubert, Winton G (DOA); Birnbaum, Alan J (LAW); Crisp, John H (DOA); Darlene Ramirez; Davies, Stephen F (DOA); Fleckenstein, Robert J (DOA); Foerster, Catherine P (DOA); Grimaldi, Louis R (DOA); Johnson, Elaine M (DOA); Jones, Jeffery B (DOA); Laasch, Linda K (DOA); Mahnken, Christine R (DOA); Maunder, Thomas E (DOA); McIver, Bren (DOA); McMains, Stephen E (DOA); Noble, Robert C (DOA); Norman, John K (DOA); Okland, Howard D (DOA); Paladijczuk, Tracie L (DOA); Pasqual, Maria (DOA); Regg, James B (DOA); Roby, David S (DOA); Saltmarsh, Arthur C (DOA); Scheve, Charles M (DOA); Schwartz, Guy L (DOA); Seamount, Dan T (DOA); Austerman, Alan; Buch, Bob (LAA); Bunde, Con (LAA); Cathy Munoz (Representative_Cathy_Engstrom_Munoz@legis.state.ak.us); Chenault, Mike (LAA); Cissna, Sharon (LAA); Coghill, John (LAA); Crawford, Harry (LAA); Dahlstrom, Nancy (LAA); Davis, Bettye J (LAA); Doogan, Mike (LAA); Dyson, Fred (LAA); Edgmon, Bryce E (LAA); Egan, Dennis W (LAA); Ellis, Johnny (LAA); Fairclough, Anna (LAA); 'Foster, Richard'; French, Hollis (LAA); Gara, Les (LAA); Gardner, Berta (LAA); Gatto, Carl (LAA); Gruenberg, Max F (LAA); Guttenberg, David (LAA); Harris, John (LAA); Hawker, Mike (LAA); Herron, Bob; Hoffman, Lyman F (LAA); Holmes, Lindsey (LAA); Huggins, Charlie (LAA); Johansen, Kyle B (LAA); Johnson, Craig W (LAA); Joule, Reggie (LAA); Kawasaki, Scott Jw (LAA); Keller, Wes (LAA); Kelly, Mike (LAA); Kerttula, Beth (LAA); kevin meyer; Kookesh, Albert (LAA); Lynn, Bob (LAA); McGuire, Lesil L (LAA); Menard, Linda K; Millett, Charisse; Neuman, Mark A (LAA); Olson, Donny (LAA); Olson, Kurt E (LAA); Paskvan, Joe; Petersen, Pete; Ramras, Jay B (LAA); Salmon, Woodie W (LAA); Seaton, Paul (LAA); Stedman, Bert K (LAA); Stevens, Gary L (LAA); Stoltze, Bill (LAA); Therriault, Gene (LAA); Thomas, Bill (LAA); Thomas, Joe (LAA); Tuck, Chris; Wagoner, Tom (LAA); Wielechowski, Bill (LAA); Wilson, Peggy A (LAA)

9/2/2009

Attachments:Public Notice, Additional Regulations, Amended Regulations 9-1-09.pdf;

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with the annular disposal of drilling waste (20 AAC 25.080) and suspended wells (20 AAC 25.110). On May 22, 2009, AOGCC published a notice of proposed changes to 20 AAC 25.080; because of substantive changes to the proposed changes, AOGCC is re-noticing them, fully revising (*i.e.*, repealing and readopting) 20 AAC 25.080 as follows:

1. modify the aquifer exemption for the disposal of drilling waste to require that the operator apply for and the U.S. EPA grant the exemption;
2. modify the information that must be submitted with an annular disposal application;
3. modify the limitations and conditions applicable to annular disposal;
4. add a provision for requesting variances and waivers; and
5. delete subsection (i) to recognize AOGCC's authority to regulate annular disposal in water wells associated with oil or gas exploration or production.

In addition, AOGCC proposes to add to 20 AAC 25.110(n) the opportunity for variances and waivers.

Jody J. Colombie
Special Assistant
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue, Suite 100
Anchorage, AK 99501
(907)793-1221 (phone)
(907)276-7542 (fax)

STATE OF ALASKA

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AOGCC

333 W 7th Ave, Ste 100
Anchorage, AK 99501
907-793-1238

AGENCY CONTACT

Jody Colombie

PHONE

(907) 793-1221

DATE OF A.O.

May 21, 2009

PCN

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SPECIAL INSTRUCTIONS:

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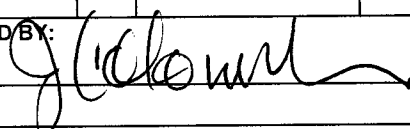
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OAnchorage Daily News
PO Box 149001
Anchorage, AK 99514Type of Advertisement Legal ☒ ☐ Display Classified ☐ Other (Specify)

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2 PAGESTOTAL OF
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NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE
ALASKA OIL AND GAS CONSERVATION COMMISSION

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with annular disposal of drilling waste. Specifically, AOGCC proposes to fully revise (*i.e.*, repeal and readopt) 20 AAC 25.080 as follows:

1. clarify the requirements (*e.g.*, by reorganizing them) regarding, and clarify AOGCC's authority to regulate (*e.g.*, by deleting subsection (i)), the annular disposal of drilling waste;
2. modify the set of information that must be submitted with an application for authorization;
3. modify the set of limitations on and conditions of authorization, such as regarding disposal operations and reporting; and
4. add a provision for requesting variances and waivers.

Written comments on the proposed regulation changes, including the potential costs of compliance, may be submitted to the AOGCC at 333 West 7th Ave., Suite 100, Anchorage, AK 99501. The comments must be received by 5:00 p.m. on June 30, 2009.

Written and/or oral comments may be submitted at a hearing to be held on July 23, 2009, at 333 West 7th Ave., Suite 100, Anchorage, Alaska. The hearing will be held from 9:00 a.m. to 11:00 a.m. and might be extended to accommodate those present before 9:30 a.m. who did not have an opportunity to comment.

If, because of a disability, a special accommodation is needed to participate in this process, please contact the Commission's Special Assistant, Jody Colombie, at 907-793-1221; 333 West 7th Ave., Suite 100, Anchorage, AK 99501; or jody.colombie@alaska.gov. Ms. Colombie must be contacted by July 20, 2009, at 5:00 p.m. to ensure that necessary accommodations can be provided.

The proposed regulation changes are available at www.aogcc.alaska.gov or by contacting Ms. Colombie at the phone number, physical address, or e-mail address above.

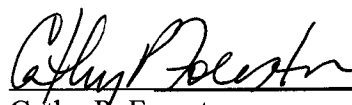
After the public comment period ends, the AOGCC will, without notice, adopt these or other provisions dealing with the same subject or decide to take no action. The language of the proposed and final regulations may be different. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments received are subject to public inspection.

Statutory Authority: AS 31.05.030; AS 31.05.040

Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030; AS 31.05.040

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

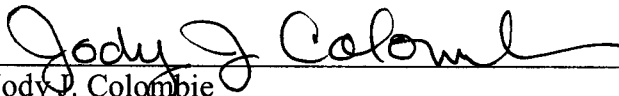
DATE: 5-21-09


Cathy P. Foerster
Commissioner

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Oil and Gas Conservation Commission.
2. General subject of regulations: annular disposal of drilling waste requirements.
3. Citation of regulations: 20 AAC 25.080.
4. Reason for the proposed action: update annular disposal of drilling waste regulations.
5. Program category and BRU affected: Alaska Oil and Gas Conservation Commission.
6. Cost of implementation to the state agency: zero.
7. The name of the contact person for the regulations:
Name: Cathy P. Foerster
Title: Commissioner
Address: 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501
Telephone: (907) 793-1221
E-mail: jody.colombie@alaska.gov
8. The origin of the proposed action: agency staff.
9. Date: May 20, 2009.

10. Prepared by:


Jody J. Colombe
Alaska Oil and Gas Conservation Commission
(907) 793-1221

Anchorage Daily News Affidavit of Publication

1001 Northway Drive, Anchorage, AK 99508

AD #	DATE	PO	ACCOUNT	PRICE PER DAY	OTHER CHARGES	OTHER CHARGES #2	OTHER CHARGES #3	GRAND TOTAL
637806	05/22/2009	02914026	STOF0330	\$385.12	\$0.00	\$0.00	\$0.00	\$385.12

STATE OF ALASKA THIRD JUDICIAL DISTRICT

Shane Drew, being first duly sworn on oath deposes and says that he is an advertising representative of the Anchorage Daily News, a daily newspaper.

That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on the above dates and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed

Shane Drew

Subscribed and sworn to me before this date:

MAY 28 2009

Notary Public in and for the State of Alaska.
Third Division, Anchorage, Alaska

MY COMMISSION EXPIRES:

Cathy P. Foerster

Name: Cathy P. Foerster
Title: Commissioner
Address: 333 W. 7th Avenue, Suite 100,
Anchorage, AK 99501
Telephone: (907) 793-1221
E-mail: jody.colombie@alaska.gov

8. The origin of the proposed action: agency staff.

9. Date: May 20, 2009.

10. Prepared by:

Jody J. Colombie
Alaska Oil and Gas Conservation Commission
(907) 793-1221

Cathy P. Foerster
Commissioner

AO-02914026
Published: May 22, 2009



NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE ALASKA OIL AND GAS CONSERVATION COMMISSION

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with annular disposal of drilling waste. Specifically, AOGCC proposes to fully revise (i.e., repeal and readopt) 20 AAC 25.080 as follows:

1. clarify the requirements (e.g., by reorganizing them) regarding, and clarify AOGCC's authority to regulate (e.g., by deleting subsection (i)), the annular disposal of drilling waste;
2. modify the set of information that must be submitted with an application for authorization;
3. modify the set of limitations on and conditions of authorization, such as regarding disposal operations and reporting; and
4. add a provision for requesting variances and waivers.

Written comments on the proposed regulation changes, including the potential costs of compliance, may be submitted to the AOGCC at 333 West 7th Ave., Suite 100, Anchorage, AK 99501. The comments must be received by 5:00 p.m. on June 30, 2009.

Written and/or oral comments may be submitted at a hearing to be held on July 23, 2009, at 333 West 7th Ave., Suite 100, Anchorage, Alaska. The hearing will be held from 9:00 a.m. to 11:00 a.m. and might be extended to accommodate those present before 9:30 a.m. who did not have an opportunity to comment.

If, because of a disability, a special accommodation is needed to participate in this process, please contact the Commission's Special Assistant, Jody Colombie, at 907-793-1221, 333 West 7th Ave., Suite 100, Anchorage, AK 99501, or jody.colombie@alaska.gov. Ms. Colombie must be contacted by July 20, 2009, at 5:00 p.m. to ensure that necessary accommodations can be provided.

The proposed regulation changes are available at www.aogcc.alaska.gov or by contacting Ms. Colombie at the phone number, physical address, or e-mail address above.

After the public comment period ends, the AOGCC will, without notice, adopt these or other provisions dealing with the same subject or decide to take no action. The language of the proposed and final regulations may be different. YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED. Written comments received are subject to public inspection.

Statutory Authority: AS 31.05.030; AS 31.05.040
Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030; AS 31.05.040

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

ADDITIONAL REGULATIONS NOTICE INFORMATION (AS 44.62.190(d))

Adopting agency: Alaska Oil and Gas Conservation Commission.

General subject of regulations: annular disposal of drilling waste requirements.

Citation of regulations: 20 AAC 25.080.

Reason for the proposed action: update annular disposal of drilling waste regulations.

Program category and BRU affected: Alaska Oil and Gas Conservation Commission.

Cost of implementation to the state agency: zero.

7. The name of the contact person for the regulations:

STATE OF ALASKA

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907-793-1238

AGENCY CONTACT

Jody Colombie

PHONE

(907) 793-1221

DATE OF A.O.

May 21, 2009

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United states of America

State of _____ ss

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Before me, the undersigned, a notary public this day personally appeared

_____ who, being first duly sworn, according to law, says that

he/she is the _____ of _____

Published at _____ in said division _____ and

state of _____ and that the advertisement, of which the annexed is

a true copy, was published in said publication on the _____ day of

_____ 2009, and thereafter for _____ consecutive days, the last publication

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Subscribed and sworn to before me

This _____ day of _____ 2009,

Notary public for state of _____

My commission expires _____

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20 AAC 25.080 is repealed and readopted to read:

20 AAC 25.080. Annular disposal of drilling waste

- (a) Drilling waste, as defined in (i) of this section, may not be disposed through the annular space of a well unless authorized by the commission under this section. The operator of a well for which a permit to drill has been issued by the commission may request authorization to dispose of drilling waste through the well's annular space by filing an Annular Disposal Application (Form 10-403AD), including all the information required under (e) of this section.
- (b) Unless otherwise authorized, annular disposal of drilling waste will be limited to
 - (1) 35,000 barrels through the annular space of a single well;
 - (2) wastes generated by drilling operations on the same drill pad or platform as the disposal annulus;
 - (3) 90 days of actual disposal within a one-year approval period; and
 - (4) a one-year period beginning on the date of approval of the Annular Disposal Application.
- (c) Drilling waste must not
 - (1) migrate from the approved disposal interval;
 - (2) impair the mechanical integrity of any well; or
 - (3) damage a producing or potentially producing formation or impair the recovery of oil or gas.
- (d) Drilling waste may not be disposed of into any freshwater unless the commission finds that the freshwater has a total dissolved solids content of more than 3,000 mg/l and is not reasonably expected to serve as a source of drinking water for human consumption; the commission may, in its discretion, provide 15-days notice and the opportunity for a public hearing before making the finding.
- (e) An application for authorization under this section must include or reference (*i.e.*, if the information is on file with the commission) the following information:
 - (1) a schematic of the well proposed to receive the drilling waste;
 - (2) lists and plats identifying
 - (A) all wells and well branches that penetrate the disposal interval within a one-quarter mile radius of the casing shoe of the disposal annulus; the well paths of all wells

and well branches must be shown on the plat, and the planar distances from all wells and well branches to the casing shoe of the disposal annulus must be provided;

- (B) all publicly recorded water wells within a one-mile radius of the surface location of the well that would receive the drilling waste; and
- (C) all operators and surface owners within a one-quarter mile radius of the casing shoe of the disposal annulus;
- (3) the measured and true vertical depths at the base of any freshwater aquifer(s) and permafrost;
- (4) an assessment of shallow seismic information, where available, with an interpretation of faults and other anomalies within a one-quarter mile radius of the casing shoe of the disposal annulus;
- (5) a stratigraphic description of and well log(s) across the disposal interval showing the drilling waste receiving and confining intervals;
- (6) a description of the drilling waste, including its composition and well source, and the identification of any waste that falls within (i)(3) of this section;
- (7) the estimated density of the drilling waste slurry;
- (8) the anticipated maximum pressure at the surface and at the casing shoe during the disposal operations; the calculations showing how the casing shoe pressure value was determined must be provided;
- (9) information demonstrating that the inner and outer casing strings have sufficient collapse and burst strength to withstand the maximum anticipated pressure of disposal operations;
- (10) information demonstrating that the shoe of the outer casing
 - (A) is set below the base of permafrost and any freshwater aquifer with a total dissolved solids content of less than 3,000 mg/l; and
 - (B) is adequately cemented to provide isolation; the information required under this sub-section must include
 - (i) casing and cementing records for both casings forming the annulus;
 - (ii) casing and cementing records for all wells that penetrate the disposal interval within a one-quarter mile radius of the casing shoe;

- (iii) the results of a leak-off test conducted below the outer casing shoe, or, if leak-off is not attained, the results of a formation integrity test conducted below the outer casing shoe;
 - (iv) the results of an injectivity test conducted below the outer casing shoe; and
 - (v) if required by the commission, a cement quality or other log(s);
- (C) if the annular disposal operations are proposed for a permitted but not drilled well, the information required under (e)(10)(B) of this section may be submitted as soon as it becomes available; the annular disposal application will not be complete until all this information is submitted.
- (11) a list and description of any uncemented hydrocarbon zones within the disposal annulus;
 - (12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;
 - (13) if drilling waste was previously disposed of through the annular space of the well, the dates of the disposal operations, the types and volumes of each type of waste disposed of, and the sources of the waste; and
 - (14) additional information and analyses required by the commission.
- (f) Annular disposal operations must comply with the following conditions:
- (1) the downhole disposal pressure may not at any time exceed the downhole pressure measured during the formation leak-off test or formation integrity test that was conducted below the outer casing shoe;
 - (2) the operator must continuously monitor the following during disposal operations: the types and volumes of each type of waste disposed, disposal rates, surface pressures of the tubing and all annuli of the well receiving the drilling waste, and as specified by the commission, surface pressures of the annuli of adjacent wells;
 - (3) the operator shall immediately cease disposal, notify the commission within 24 hours, and take all appropriate remedial action, including but not limited to any action ordered by the commission, if
 - (A) there is evidence of migration of fluids from the disposal interval;
 - (B) disposal operations pose a threat to well integrity, health or safety, hydrocarbon-bearing zones, correlative rights, or the environment, including freshwater; or

(C) there is any unauthorized disposal;

- (4) the operator shall file with the commission a full report within 10 days of any incident requiring action under (f)(3) of this section; the report shall include a description of any actions taken, the effectiveness of those actions, and any additional necessary actions; and
- (5) the operator shall comply with any other conditions the commission determines are important to ensure compliance with any limitation in (c) or (d) of this section.

(g) The operator shall

- (1) not later than 20 days after each calendar quarter during an authorized disposal operation period, file with the commission a Report of Annular Disposal (Form 10-423); and
- (2) file additional information and analyses as required by the commission.

(h) Unless notice and hearing are required under this section, upon written request from the operator, the commission may approve a variance from a requirement of this section if the variance provides at least an equally effective means of complying with the requirement, or a waiver of a requirement of this section if the waiver will not promote waste, is based on sound engineering and geoscience principles, will not jeopardize the ultimate recovery of hydrocarbons, will not jeopardize correlative rights, and will not result in an increased risk to health, safety, or the environment, including any freshwater as defined under 20 AAC 25.990(27).

(i) In this section, "drilling waste" means the following substances, unless identified as a "hazardous waste" in 40 C.F.R. 261:

- (1) drilling mud, drilling cuttings, reserve pit fluids, cement-contaminated drilling mud, completion fluids, formation fluids associated with the act of drilling a well permitted under 20 AAC 25.005, and any added water needed to facilitate the pumping of drilling mud or drilling cuttings;
- (2) drill rig wash fluids and drill rig domestic waste water; and
- (3) other substances that the commission determines, upon operator request, are wastes associated with the act of drilling a well permitted under 20 AAC 25.005. (Eff. 9/22/96, Register 139; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030

AS 31.05.040

SERVICE LIST FOR PROPOSED AMENDMENTS TO 20 AAC 25.080

On May 21, 2009, the public notice of proposed amendments to 20 AAC 25.080, Additional Regulations Notice Information, and proposed regulation were mailed to:

Annette Kreitzer
Commissioner
Department of Administration
PO Box 110200
Juneau, AK 99811

Legislative Reference Library
Legislative Affairs Agency
State Capitol
Juneau, AK 99801
Mail Stop: 3101

Senator Lesil McGuire, Co-Chair
Senate Resources Committee
716 W. 4th Ave. Suite 430
Anchorage AK, 99501-2133

Senator Bill Wielechowski, Co-Chair
Senate Resources Committee
716 W 4th Ave # 540
Anchorage, AK 99501

Senator Charlie Huggins, Vice-Chair
Senate Resources Committee
600 E. Railroad Avenue
Wasilla AK, 99654

Representative Craig Johnson, Co-Chair
House Resources Committee
716 W. 4th Ave. Suite 640
Anchorage AK, 99501-2133

Representative Mark Neuman, Co-Chair
House Resources Committee
600 E. Railroad Avenue
Wasilla AK, 99654

Representative Wes Keller, Chair
Administrative Regulation Review
600 E. Railroad Avenue
Wasilla AK, 99654

Senator Donald Olson, Vice-Chair
Administrative Regulation Review
716 W. 4th Ave. Suite 560
Anchorage AK, 99501-2133

Senator Bettye Davis, Vice-Chair
Legislative Council
716 W. 4th Ave. Suite 400
Anchorage AK, 99501-2133

Representative John Harris, Chair
Legislative Council
716 W. 4th Ave. Suite 600
Anchorage AK, 99501-2133

On May 21, 2009, the public notice of proposed amendments to 20 AAC 25.080, Additional Regulations Notice Information, and proposed regulation were mailed to:

Debra Behr
Chief Assistant Attorney General
Legislation and Regulations Section
Department of Law
PO Box 110300
Juneau, AK 99811

Colombie, Jody J (DOA)

From: Colombie, Jody J (DOA)
Sent: Wednesday, June 10, 2009 9:43 AM
Subject: Public Notice, Additional Information, Proposed Annular Disposal Regulations
Attachments: Public Notice, Additional Info, Amended Regulations.pdf

BCC: Anna Raff; Barbara F Fullmer; bbritch; Bill Walker; Brad McKim; Brandon Gagnon; Brian Gillespie; Brian Havelock; Brit Lively; Bruce Webb; buonoje; Cammy Taylor; Cande.Brandow; carol smyth; Cary Carrigan; caunderwood@marathonoil.com; Charles O'Donnell; Chris Gay; Cliff Posey; Dan Bross; dapa; Daryl J. Kleppin; David Brown; David Gorney; David House; David L Boelens; David Steingreaber; ddonkel; Deborah Jones; Decker, Paul L (DNR); doug_schultze; Eric Lidji ; Evan Harness; eyancy; foms2@mtaonline.net; Francis S. Sommer; Fred Steece; Garland Robinson; Gary Laughlin; Gary Rogers; Gary Schultz; ghammons; Gordon Pospisil; Gregg Nady; gspfoff; Hank Alford; Harry Engel; jah; Janet D. Platt; jejones; Jerry Brady; Jerry McCutcheon; Jim Arlington; Jim White; Jim Winegarner; Joe Nicks; John Garing; John S. Haworth; John Spain; John Tower; John W Katz; Jon Goltz; Julie Houle; Kari Moriarty; Kaynell Zeman; Keith Wiles; knelson@petroleumnews.com; Krissell Crandall; Kristin Dirks; Kristin Elowe; Laura Silliphant; mail=akpratts@acsalaska.net; mail=foms@mtaonline.net; Marilyn Crockett; Mark Dalton; Mark Hanley; Mark Kovac; Mark P. Worcester; Marquerite kremer; Melanie Brown; Mike Bill; Mike Jacobs; Mike Mason; Mikel Schultz; Mindy Lewis; MJ Loveland; mjnelson; mkm7200; Nick W. Glover; NSK Problem Well Supv; NSU, ADW Well Integrity Engineer; Patty Alfaro; Paul Winslow; Pierce, Sandra M (JPO); Rader, Matthew W (DNR); Randall Kanady; Randy L. Skillern; rmclean; Rob McWhorter ; rob.g.dragnich@exxonmobil.com; Robert Campbell; Robert Province; Roger Belman; Rudy Brueggeman; Scott Cranswick; Shannon Donnelly; Sharmaine Copeland; Sondra Stewman; Sonja Frankllin; Stan Porhola; stanekj; Steve Lambert; Steve Moothart; Steven R. Rossberg; tablerk; Tamera Sheffield; Temple Davidson; Teresa Imm; Terrie Hubble; Thompson, Nan G (DNR); Tim Lawlor; Todd Durkee; Tony Hopfinger; trmjrl; Von Gemmingen, Scott E (DOR); Walter Featherly; Walter Quay; Wayne Rancier; Aaron Gluzman; Dale Hoffman; Fridiric Grenier; Gary Orr; Jerome Eggemeyer; Joe Longo; Lamont Frazer; Marc Kuck; Mary Aschoff; Maurizio Grandi; P Bates; Richard Garrard; Sandra Lemke; Scott Nash; Steve Virant; Tom Gennings; Willem Vollenbrock; William Van Dyke; Woolf, Wendy C (DNR)

Attachments: Public Notice, Additional Info, Amended Regulations.pdf;
Please see attached Proposed Regulations for Annular Disposal.

Colombie, Jody J (DOA)

From: Colombie, Jody J (DOA)
Sent: Thursday, May 21, 2009 10:08 AM
Subject: Public Notice, Additional Information and Regulations (Annular Disposal of Drilling Waste Requirements)
Attachments: Public Notice, Additional Info, Amended Regulations.pdf

BCC:Austerman, Alan; Buch, Bob (LAA); Bunde, Con (LAA); Cathy Munoz (Representative_Cathy_Engstrom_Munoz@legis.state.ak.us); Chenault, Mike (LAA); Cissna, Sharon (LAA); Coghill, John (LAA); Crawford, Harry (LAA); Dahlstrom, Nancy (LAA); Davis, Bettye J (LAA); Doogan, Mike (LAA); Dyson, Fred (LAA); Edgmon, Bryce E (LAA); Ellis, Johnny (LAA); 'Elton, Kim S (LAA)'; Fairclough, Anna (LAA); 'Foster, Richard'; French, Hollis (LAA); Gara, Les (LAA); Gardner, Berta (LAA); Gatto, Carl (LAA); Gruenberg, Max F (LAA); Guttenberg, David (LAA); Harris, John (LAA); Hawker, Mike (LAA); Herron, Bob; Hoffman, Lyman F (LAA); Holmes, Lindsey (LAA); Huggins, Charlie (LAA); Johansen, Kyle B (LAA); Johnson, Craig W (LAA); Joule, Reggie (LAA); Kawasaki, Scott Jw (LAA); Keller, Wes (LAA); Kelly, Mike (LAA); Kerttula, Beth (LAA); Kookesh, Albert (LAA); Lynn, Bob (LAA); McGuire, Lesil L (LAA); Menard, Linda K; Meyer, Kevin G (LAA); Millett, Charisse; 'Nelson, Mary (LAA)'; Neuman, Mark A (LAA); Olson, Donny (LAA); Olson, Kurt E (LAA); Paskvan, Joe; Petersen, Pete; Ramras, Jay B (LAA); Salmon, Woodie W (LAA); Seaton, Paul (LAA); Stedman, Bert K (LAA); Stevens, Gary L (LAA); Stoltze, Bill (LAA); Therriault, Gene (LAA); Thomas, Bill (LAA); Thomas, Joe (LAA); Tuck, Chris; Wagoner, Tom (LAA); Wielechowski, Bill (LAA); 'Wilken, Gary R (LAA)'; Wilson, Peggy A (LAA); Aubert, Winton G (DOA); Birnbaum, Alan J (LAW); Crisp, John H (DOA); Davies, Stephen F (DOA); Fleckenstein, Robert J (DOA); Foerster, Catherine P (DOA); Grimaldi, Louis R (DOA); Johnson, Elaine M (DOA); Jones, Jeffery B (DOA); Laasch, Linda K (DOA); Mahnken, Christine R (DOA); Maunder, Thomas E (DOA); McIver, Bren (DOA); McMains, Stephen E (DOA); Noble, Robert C (DOA); Norman, John K (DOA); Okland, Howard D (DOA); Paladijczuk, Tracie L (DOA); Pasqual, Maria (DOA); Regg, James B (DOA); Roby, David S (DOA); Saltmarsh, Arthur C (DOA); Scheve, Charles M (DOA); Seamount, Dan T (DOA); David Johnson; 'Kara, Danny T'; 'Leslie Adams'; Randy Hicks; Tiffany Stebbins

Attachments:Public Notice, Additional Info, Amended Regulations.pdf;

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with annular disposal of drilling waste. Specifically, AOGCC proposes to fully revise (*i.e.*, repeal and readopt) 20 AAC 25.080 as follows:

1. clarify the requirements (*e.g.*, by reorganizing them) regarding, and clarify AOGCC's authority to regulate (*e.g.*, by deleting subsection (i)), the annular disposal of drilling waste;
2. modify the set of information that must be submitted with an application for authorization;
3. modify the set of limitations on and conditions of authorization, such as regarding disposal operations and reporting; and
4. add a provision for requesting variances and waivers.

Jody J. Colombie
 Special Assistant
 Alaska Oil and Gas Conservation Commission
 333 West 7th Avenue, Suite 100
 Anchorage, AK 99501
 (907)793-1221 (phone)
 (907)276-7542 (fax)

Colombie, Jody J (DOA)

From: Colombie, Jody J (DOA)
Sent: Thursday, May 21, 2009 10:54 AM
To: Egan, Dennis W (LAA)
Subject: FW: Public Notice, Additional Information and Regulations (Annular Disposal of Drilling Waste Requirements)
Attachments: Public Notice, Additional Info, Amended Regulations.pdf

From: Colombie, Jody J (DOA)
Sent: Thursday, May 21, 2009 10:08 AM
Subject: Public Notice, Additional Information and Regulations (Annular Disposal of Drilling Waste Requirements)
The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with annular disposal of drilling waste. Specifically, AOGCC proposes to fully revise (*i.e.*, repeal and readopt) 20 AAC 25.080 as follows:

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Jody J. Colombie
Special Assistant
Alaska Oil and Gas Conservation Commission
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Bernie Karl
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PO Box 58055
Fairbanks, AK 99711

North Slope Borough
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Barrow, AK 99723

Mailed
5/2/09

#2

STATE OF ALASKA

**ALASKA OIL AND GAS
CONSERVATION COMMISSION**

SARAH PALIN, GOVERNOR

333 W. 7th AVENUE, SUITE 100
ANCHORAGE, ALASKA 99501-3539
PHONE (907) 279-1433
FAX (907) 276-7542

July 14, 2009

Dana L. Olson
HC-35 Box 5438
Wasilla, AK 99564

Re: Denial of Request To Change Hearing Times

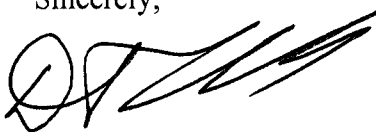
Dear Ms. Olson:

The Alaska Oil and Gas Conservation Commission (AOGCC) received your hand-delivered letter, dated July 3, 2009, requesting that the AOGCC change the times of hearings currently set for 9:00 a.m. on July 23 2009 and August 11, 2009. You seek to reschedule the hearings for the afternoon.

The only basis for your request to change the times is "so I can attend." The AOGCC is obligated to assure adequate notice of its public hearings and has met that obligation with regard to the hearings at issue here. The AOGCC does not have an additional obligation to schedule its public meetings at times convenient to those interested in attending. As a result, your request to change the hearing times is denied.

If you have any questions regarding this letter, contact Ms. Jody Colombie, the Special Assistant to the Commission, at 907-793-1221 or jody.colombie@alaska.gov.

Sincerely,



Daniel T. Seamount Jr.
Chair

3 July 09

Re Public hearing / regulatory (SPACING)
NOTICES AND OPPOSITION / public
policy exception to mootness.

To change legal status of appropriations
is unconstitutional, especially if parties
interests are different than state
interest under public exception
to mootness.

(The health Agency) can not operate
inconsistent with bias, nor can
the toxic substance control act (state
interpretation be changed. (state or federal).

I ask to public process to be in
the afternoon after 10:30
so I can attend.

Casehoods are not a constitutional
entity, entitled to due process of law
under 14th Amendment.

Thanks,

RECEIVED

JUL 02 2009

Alaska Oil & Gas Cons. Commission
Anchorage

4:29pm

DANA L. OLSON
Dana L. Olson
HC-35 box 5438
WASILLA AK 99654

Notice of Public Hearing and Comment Opportunity

**STATE OF ALASKA
Alaska Oil and Gas Conservation Commission**

Re: The application of Aurora Gas, LLC for a spacing exception under 20 AAC 25.055 to drill the Moquawkie No. 5 well.

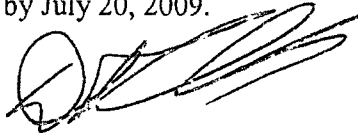
Aurora Gas, LLC (Aurora), by a letter received June 2, 2009 by the Alaska Oil and Gas Conservation Commission (Commission), requests an order for an exception to the spacing requirements of 20 AAC 25.055(a)(4) to drill the Moquawkie No. 5 vertical gas development well within the same governmental section as, and within 3,000 feet of, wells capable of producing from the same pool.

The proposed surface and bottomhole locations of the Moquawkie No. 5 well are the same: 1,169 feet from the north line and 1,268 feet from the west line of Section 1, T11N, R12W, Seward Meridian (S.M.).

A public hearing on the application is tentatively scheduled for July 21, 2009, at 9:00 a.m. at the Commission: 333 West 7th Ave., Suite 100, Anchorage, AK 99501. To request that the hearing be held, a written request must be filed by 4:30 p.m. on July 6, 2009. If a request is not timely filed, the Commission may consider the issuance of an order without a hearing. To learn if the Commission will hold a hearing, call 907-793-1221 after July 9, 2009.

Written comments regarding the application may be submitted to the Commission at the address above. Comments must be received by 4:30 p.m. on July 17, 2009, except that, if a hearing is held, comments must be received by the conclusion of the hearing.

If, because of a disability, special accommodations may be needed to comment or attend the hearing, call 907-793-1221 by July 20, 2009.



Daniel T. Seamount, Jr.
Chair

NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE
ALASKA OIL AND GAS CONSERVATION COMMISSION

The Alaska Oil and Gas Conservation Commission (AOGCC) proposes to adopt regulation changes to Title 20 of the Alaska Administrative Code, dealing with annular disposal of drilling waste. Specifically, AOGCC proposes to fully revise (*i.e.*, repeal and readopt) 20 AAC 25.080 as follows:

1. clarify the requirements (*e.g.*, by reorganizing them) regarding, and clarify AOGCC's authority to regulate (*e.g.*, by deleting subsection (i)), the annular disposal of drilling waste;
2. modify the set of information that must be submitted with an application for authorization;
3. modify the set of limitations on and conditions of authorization, such as regarding disposal operations and reporting; and
4. add a provision for requesting variances and waivers.

Written comments on the proposed regulation changes, including the potential costs of compliance, may be submitted to the AOGCC at 333 West 7th Ave., Suite 100, Anchorage, AK 99501. The comments must be received by 5:00 p.m. on June 30, 2009.

Written and/or oral comments may be submitted at a hearing to be held on July 23, 2009, at 333 West 7th Ave., Suite 100, Anchorage, Alaska. The hearing will be held from 9:00 a.m. to 11:00 a.m. and might be extended to accommodate those present before 9:30 a.m. who did not have an opportunity to comment.

If, because of a disability, a special accommodation is needed to participate in this process, please contact the Commission's Special Assistant, Jody Colombie, at 907-793-1221; 333 West 7th Ave., Suite 100, Anchorage, AK 99501; or jody.colombie@alaska.gov. Ms. Colombie must be contacted by July 20, 2009, at 5:00 p.m. to ensure that necessary accommodations can be provided.

The proposed regulation changes are available at www.aogcc.alaska.gov or by contacting Ms. Colombie at the phone number, physical address, or e-mail address above.

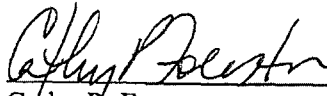
After the public comment period ends, the AOGCC will, without notice, adopt these or other provisions dealing with the same subject or decide to take no action. The language of the proposed and final regulations may be different. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments received are subject to public inspection.

Statutory Authority: AS 31.05.030; AS 31.05.040


Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030; AS 31.05.040

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 5-21-09


Cathy P. Foerster
Commissioner

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Oil and Gas Conservation Commission.
2. General subject of regulations: annular disposal of drilling waste requirements.
3. Citation of regulations: 20 AAC 25.080.
4. Reason for the proposed action: update annular disposal of drilling waste regulations.
5. Program category and BRU affected: Alaska Oil and Gas Conservation Commission.
6. Cost of implementation to the state agency: zero.
7. The name of the contact person for the regulations:
Name: Cathy P. Foerster
Title: Commissioner
Address: 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501
Telephone: (907) 793-1221
E-mail: jody.colombie@alaska.gov
8. The origin of the proposed action: agency staff.
9. Date: May 20, 2009.
10. Prepared by: 
Jody J. Colombe
Alaska Oil and Gas Conservation Commission
(907) 793-1221

20 AAC 25.080 is repealed and readopted to read:

20 AAC 25.080. Annular disposal of drilling waste

- (a) Drilling waste, as defined in (i) of this section, may not be disposed through the annular space of a well unless authorized by the commission under this section. The operator of a well for which a permit to drill has been issued by the commission may request authorization to dispose of drilling waste through the well's annular space by filing an Annular Disposal Application (Form 10-403AD), including all the information required under (e) of this section.
- (b) Unless otherwise authorized, annular disposal of drilling waste will be limited to
 - (1) 35,000 barrels through the annular space of a single well;
 - (2) wastes generated by drilling operations on the same drill pad or platform as the disposal annulus;
 - (3) 90 days of actual disposal within a one-year approval period; and
 - (4) a one-year period beginning on the date of approval of the Annular Disposal Application.
- (c) Drilling waste must not
 - (1) migrate from the approved disposal interval;
 - (2) impair the mechanical integrity of any well; or
 - (3) damage a producing or potentially producing formation or impair the recovery of oil or gas.
- (d) Drilling waste may not be disposed of into any freshwater unless the commission finds that the freshwater has a total dissolved solids content of more than 3,000 mg/l and is not reasonably expected to serve as a source of drinking water for human consumption; the commission may, in its discretion, provide 15-days notice and the opportunity for a public hearing before making the finding.
- (e) An application for authorization under this section must include or reference (*i.e.*, if the information is on file with the commission) the following information:
 - (1) a schematic of the well proposed to receive the drilling waste;
 - (2) lists and plats identifying
 - (A) all wells and well branches that penetrate the disposal interval within a one-quarter mile radius of the casing shoe of the disposal annulus; the well paths of all wells

and well branches must be shown on the plat, and the planar distances from all wells and well branches to the casing shoe of the disposal annulus must be provided;

- (B) all publicly recorded water wells within a one-mile radius of the surface location of the well that would receive the drilling waste; and
 - (C) all operators and surface owners within a one-quarter mile radius of the casing shoe of the disposal annulus;
- (3) the measured and true vertical depths at the base of any freshwater aquifer(s) and permafrost;
 - (4) an assessment of shallow seismic information, where available, with an interpretation of faults and other anomalies within a one-quarter mile radius of the casing shoe of the disposal annulus;
 - (5) a stratigraphic description of and well log(s) across the disposal interval showing the drilling waste receiving and confining intervals;
 - (6) a description of the drilling waste, including its composition and well source, and the identification of any waste that falls within (i)(3) of this section;
 - (7) the estimated density of the drilling waste slurry;
 - (8) the anticipated maximum pressure at the surface and at the casing shoe during the disposal operations; the calculations showing how the casing shoe pressure value was determined must be provided;
 - (9) information demonstrating that the inner and outer casing strings have sufficient collapse and burst strength to withstand the maximum anticipated pressure of disposal operations;
 - (10) information demonstrating that the shoe of the outer casing
 - (A) is set below the base of permafrost and any freshwater aquifer with a total dissolved solids content of less than 3,000 mg/l; and
 - (B) is adequately cemented to provide isolation; the information required under this sub-section must include
 - (i) casing and cementing records for both casings forming the annulus;
 - (ii) casing and cementing records for all wells that penetrate the disposal interval within a one-quarter mile radius of the casing shoe;

- (iii) the results of a leak-off test conducted below the outer casing shoe, or, if leak-off is not attained, the results of a formation integrity test conducted below the outer casing shoe;
 - (iv) the results of an injectivity test conducted below the outer casing shoe; and
 - (v) if required by the commission, a cement quality or other log(s);
- (C) if the annular disposal operations are proposed for a permitted but not drilled well, the information required under (e)(10)(B) of this section may be submitted as soon as it becomes available; the annular disposal application will not be complete until all this information is submitted.
- (11) a list and description of any uncemented hydrocarbon zones within the disposal annulus;
 - (12) a list of, description of, and salinity determination for all waters penetrated by the well; salinity determinations must be based upon laboratory measurements or calculation methods described in the "Survey of Methods to Determine Total Dissolved Solids Concentrations," Contract No. 68-03-3416, KEDA Project No. 30-956, U.S. Environmental Protection Agency, Office of Drinking Water;
 - (13) if drilling waste was previously disposed of through the annular space of the well, the dates of the disposal operations, the types and volumes of each type of waste disposed of, and the sources of the waste; and
 - (14) additional information and analyses required by the commission.
- (f) Annular disposal operations must comply with the following conditions:
- (1) the downhole disposal pressure may not at any time exceed the downhole pressure measured during the formation leak-off test or formation integrity test that was conducted below the outer casing shoe;
 - (2) the operator must continuously monitor the following during disposal operations: the types and volumes of each type of waste disposed, disposal rates, surface pressures of the tubing and all annuli of the well receiving the drilling waste, and as specified by the commission, surface pressures of the annuli of adjacent wells;
 - (3) the operator shall immediately cease disposal, notify the commission within 24 hours, and take all appropriate remedial action, including but not limited to any action ordered by the commission, if
 - (A) there is evidence of migration of fluids from the disposal interval;
 - (B) disposal operations pose a threat to well integrity, health or safety, hydrocarbon-bearing zones, correlative rights, or the environment, including freshwater; or

- (C) there is any unauthorized disposal;
- (4) the operator shall file with the commission a full report within 10 days of any incident requiring action under (f)(3) of this section; the report shall include a description of any actions taken, the effectiveness of those actions, and any additional necessary actions; and
- (5) the operator shall comply with any other conditions the commission determines are important to ensure compliance with any limitation in (c) or (d) of this section.
- (g) The operator shall
- (1) not later than 20 days after each calendar quarter during an authorized disposal operation period, file with the commission a Report of Annular Disposal (Form 10-423); and
- (2) file additional information and analyses as required by the commission.
- (h) Unless notice and hearing are required under this section, upon written request from the operator, the commission may approve a variance from a requirement of this section if the variance provides at least an equally effective means of complying with the requirement, or a waiver of a requirement of this section if the waiver will not promote waste, is based on sound engineering and geoscience principles, will not jeopardize the ultimate recovery of hydrocarbons, will not jeopardize correlative rights, and will not result in an increased risk to health, safety, or the environment, including any freshwater as defined under 20 AAC 25.990(27).
- (i) In this section, "drilling waste" means the following substances, unless identified as a "hazardous waste" in 40 C.F.R. 261:
- (1) drilling mud, drilling cuttings, reserve pit fluids, cement-contaminated drilling mud, completion fluids, formation fluids associated with the act of drilling a well permitted under 20 AAC 25.005, and any added water needed to facilitate the pumping of drilling mud or drilling cuttings;
- (2) drill rig wash fluids and drill rig domestic waste water; and
- (3) other substances that the commission determines, upon operator request, are wastes associated with the act of drilling a well permitted under 20 AAC 25.005. (Eff. 9/22/96, Register 139; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030

AS 31.05.040

#1

MEMORANDUM

State of Alaska

Department of Law

RECEIVED

JUN 01 2009

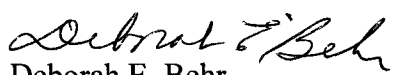
Alaska Oil & Gas Cons. Commission
Anchorage

To: Daniel T. Seamount, Jr., Chair
Oil and Gas Conservation Commission
Dept. of Administration

Date: May 28, 2009

File No.: JU2009200534

Tel. No.: 465-3600

From: 
Deborah E. Behr
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Re: Regulations File Opening Re:
20 AAC 25.080: Annular Disposal
of Drilling Waste Requirements

We have received Cathy Foerster's memorandum of May 20, 2009 regarding the above-referenced matter, along with a copy of the proposed regulations and related documents. The project has been assigned to Alan Birnbaum, Assistant Attorney General, phone number 269-5100.

Our department's file number for this project is JU2009200534. This file number should be used on any further correspondence pertaining to this project.

DEB:ajh

cc: Robert Pearson, Regulations Contact
Dept. of Administration

Jody Colombie, Special Assistant to the Commission
Oil and Gas Conservation Commission
Dept. of Administration

Ben Shier, AAC Coordinator
Lt. Governor's Office

Tina Kobayashi, Supervising Attorney
Oil, Gas and Mining Section

Alan Birnbaum, Assistant Attorney General
Anchorage

MEMORANDUM

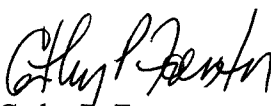
STATE OF ALASKA

ALASKA OIL AND GAS CONSERVATION COMMISSION

TO: Deborah E. Behr
Assistant Attorney General
And Regulations Attorney
Legislation and Regulations Section

DATE: May 20, 2009

SUBJECT: File-Opening Request for
Regulations Project on
Annular Disposal of
Drilling Waste
Requirements
20 AAC 25.080

FROM: 
Cathy P. Foerster
Regulations Contact
Department of Administration

Please open a file for an Alaska Oil and Gas Conservation Commission regulations project regarding changes in Title 20, Chapter 25, Section 080 of the Alaska Administrative Code, dealing with annular disposal of drilling waste requirements.

Enclosed is the public notice, Additional Regulations Notice Information, and proposed amended regulations.

Please assign Assistant Attorney General Alan Birnbaum to this project. Our contact person is Jody Colombie at 907-793-1221 or jody.colombie@alaska.gov.